

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 22
OFFERED BY MR. MCHUGH

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Postal Modernization Act of 1998”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDESIGNATION OF THE BOARD OF GOVERNORS, THE
POSTMASTER GENERAL, AND THE POSTAL RATE COMMISSION

Sec. 101. Redesignation of the Board of Governors.
Sec. 102. Redesignation of the Postmaster General.
Sec. 103. Redesignation of the Postal Rate Commission.
Sec. 104. Other references.

TITLE II—NEW SYSTEM RELATING TO POSTAL RATES, CLASSES,
AND SERVICES

Subtitle A—In General

Sec. 201. Establishment.
Sec. 202. Amendments to chapter 36.
Sec. 203. Postal service competitive products fund.
Sec. 204. USPS Corporation.
Sec. 205. Postal and nonpostal products.

Subtitle B—Related Provisions

Sec. 211. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 212. Qualification requirements for Commissioners and Directors.
Sec. 213. Appropriations for the Commission.
Sec. 214. Change-of-address order involving a commercial mail receiving agency.
Sec. 215. Rates for mail under former section 4358.

TITLE III—GENERAL AUTHORITY

Sec. 301. Rulemaking authority.

2

- Sec. 302. General duties.
- Sec. 303. Employment of postal police officers.
- Sec. 304. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
- Sec. 305. Unfair competition prohibited.
- Sec. 306. International postal arrangements.
- Sec. 307. Suits by and against the Postal Service.

TITLE IV—MISCELLANEOUS PROVISIONS RELATING TO THE
BUDGET AND APPROPRIATIONS PROCESS

- Sec. 401. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
- Sec. 402. Technical and conforming amendments.

TITLE V—PROVISIONS RELATING TO TRANSPORTATION,
CARRIAGE, OR DELIVERY OF MAIL

- Sec. 501. Obsolete provisions.
- Sec. 502. Expanded contracting authority.
- Sec. 503. Private carriage of letters.
- Sec. 504. Repeal of section 5403.

TITLE VI—STUDIES

- Sec. 601. Employee-management relations.
- Sec. 602. Recommendations on universal postal service.
- Sec. 603. Study on equal application of laws to competitive products.

TITLE VII—INSPECTORS GENERAL

- Sec. 701. Inspector General of the Postal Regulatory Commission.
- Sec. 702. Inspector General of the United States Postal Service to be appointed by the President.

TITLE VIII—LAW ENFORCEMENT

Subtitle A—Amendments to Title 39, United States Code

- Sec. 801. Make Federal assault statutes applicable to postal contract employees.
- Sec. 802. Sexually oriented advertising.
- Sec. 803. Allow Postal Service to retain asset forfeiture recoveries.
- Sec. 804. Hazardous matter.

Subtitle B—Other Provisions

- Sec. 811. Stalking Federal officers and employees.
- Sec. 812. Nonmailability of controlled substances.
- Sec. 813. Enhanced penalties.
- Sec. 814. Postal burglary provisions.
- Sec. 815. Mail, money, or other property of the United States.

1 **TITLE I—REDESIGNATION OF**
2 **THE BOARD OF GOVERNORS,**
3 **THE POSTMASTER GENERAL,**
4 **AND THE POSTAL RATE COM-**
5 **MISSION**

6 **SEC. 101. REDESIGNATION OF THE BOARD OF GOVERNORS.**

7 (a) AMENDMENTS TO TITLE 39, UNITED STATES
8 CODE.—Title 39, United States Code, is amended—

9 (1) in sections 102, 202, 204, 205, 402, 414,
10 1005, 3604, 3621, 3623, 3624, 3625, 3628, 3641,
11 and 3684, in the analysis for chapter 2 (in the items
12 relating to sections 202 and 205, respectively), and
13 in the analysis for chapter 36 (in the item relating
14 to section 3625) by striking “Governors” each place
15 it appears and inserting “Directors”; and

16 (2) in sections 202, 205, and 1002 by striking
17 “Governor” each place it appears and inserting “Di-
18 rector”.

19 (b) AMENDMENT TO THE FEDERAL SALARY ACT OF
20 1967.—Section 225(f)(E) of the Federal Salary Act of
21 1967 (2 U.S.C. 356(E)) is amended by striking “Gov-
22 ernors of the Board of Governors of the United States
23 Postal Service” and inserting “Directors of the Board of
24 Directors of the United States Postal Service”.

1 (c) AMENDMENTS TO TITLE 5, UNITED STATES
2 CODE.—Title 5, United States Code, is amended in sec-
3 tions 8344(e) and 8468(c) by striking “Governor of the
4 Board of Governors of the United States Postal Service”
5 and inserting “Director of the Board of Directors of the
6 United States Postal Service”.

7 (d) AMENDMENTS TO THE ETHICS IN GOVERNMENT
8 ACT OF 1978.—The Ethics in Government Act of 1978
9 (5 U.S.C. App.) is amended—

10 (1) in section 101(f)(6) by striking “Governor
11 of the Board of Governors of the United States
12 Postal Service” and inserting “Director of the Board
13 of Directors of the United States Postal Service”;
14 and

15 (2) in sections 103(c) and 106(b)(6) by striking
16 “Governors of the Board of Governors of the United
17 States Postal Service” and inserting “Directors of
18 the Board of Directors of the United States Postal
19 Service”.

20 (e) AMENDMENTS TO TITLE 18, UNITED STATES
21 CODE.—Title 18, United States Code, is amended in sec-
22 tions 1735 and 3061 by striking “Governors” each place
23 it appears and inserting “Directors”.

1 **SEC. 102. REDESIGNATION OF THE POSTMASTER GENERAL.**

2 (a) AMENDMENTS TO TITLE 39, UNITED STATES
3 CODE.—Section 102 of title 39, United States Code, is
4 amended by striking “and” at the end of paragraph (3),
5 by striking the period at the end of paragraph (4) and
6 inserting “; and”, and by adding at the end the following:

7 “(5) ‘Postmaster General’ means the Post-
8 master General and Chief Executive Officer of the
9 United States Postal Service appointed under sec-
10 tion 202(a) of this title.”.

11 (b) AMENDMENTS TO THE ETHICS IN GOVERNMENT
12 ACT OF 1978.—The Ethics in Government Act of 1978
13 (5 U.S.C. App.) is amended in sections 101(f)(6), 103(c),
14 and 106(b)(6) by striking “Postmaster General” and in-
15 serting “Postmaster General and Chief Executive Officer
16 of the United States Postal Service”.

17 (c) AMENDMENTS TO TITLE 18, UNITED STATES
18 CODE.—Title 18, United States Code, is amended in sec-
19 tions 501, 1703, 1704, and 1709 by striking “Postmaster
20 General” each place it appears and inserting “Postmaster
21 General and Chief Executive Officer of the United States
22 Postal Service”.

23 **SEC. 103. REDESIGNATION OF THE POSTAL RATE COMMIS-**
24 **SION.**

25 (a) AMENDMENTS TO TITLE 39, UNITED STATES
26 CODE.—Title 39, United States Code, is amended in sec-

1 tions 404, 1001, 1002, 2003, 3601, 3602, 3603, 3604,
2 3622, 3623, 3624, 3625, 3628, 3641, and 3661, in the
3 analysis for chapter 36 (in the item relating to subchapter
4 I), and in the heading for subchapter I of chapter 36 by
5 striking “Postal Rate Commission” each place it appears
6 and inserting “Postal Regulatory Commission”.

7 (b) AMENDMENTS TO TITLE 5, UNITED STATES
8 CODE.—Title 5, United States Code, is amended in sec-
9 tions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item
10 relating to Chairman, Postal Rate Commission), 5315 (in
11 the item relating to Members, Postal Rate Commission),
12 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),
13 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking
14 “Postal Rate Commission” and inserting “Postal Regu-
15 latory Commission”.

16 (c) AMENDMENT TO THE ETHICS IN GOVERNMENT
17 ACT OF 1978.—Section 101(f)(6) of the Ethics in Govern-
18 ment Act of 1978 (5 U.S.C. App.) is amended by striking
19 “Postal Rate Commission” and inserting “Postal Regu-
20 latory Commission”.

21 (d) AMENDMENT TO THE REHABILITATION ACT OF
22 1973.—Section 501(b) of the Rehabilitation Act of 1973
23 (29 U.S.C. 791(b)) is amended by striking “Postal Rate
24 Office” and inserting “Postal Regulatory Commission”.

1 (e) AMENDMENT TO TITLE 44, UNITED STATES
2 CODE.—Section 3502(5) of title 44, United States Code,
3 is amended by striking “Postal Rate Commission” and in-
4 serting “Postal Regulatory Commission”.

5 **SEC. 104. OTHER REFERENCES.**

6 (a) BOARD OF GOVERNORS, ETC.—Whenever ref-
7 erence is made in any provision of law (other than this
8 Act or a provision of law amended by this Act), regulation,
9 rule, document, or other record of the United States to
10 the Board of Governors of the United States Postal Serv-
11 ice (or any Governor or Governors thereof), such reference
12 shall be considered a reference to the Board of Directors
13 of the United States Postal Service (or any Director or
14 Directors thereof, as appropriate).

15 (b) POSTMASTER GENERAL.—Whenever reference is
16 made in any provision of law (other than this Act or a
17 provision of law amended by this Act), regulation, rule,
18 document, or other record of the United States to the
19 Postmaster General, such reference shall be considered a
20 reference to the Postmaster General and Chief Executive
21 Officer of the United States Postal Service.

22 (c) POSTAL RATE COMMISSION.—Whenever reference
23 is made in any provision of law (other than this Act or
24 a provision of law amended by this Act), regulation, rule,
25 document, or other record of the United States to the

1 Postal Rate Commission, such reference shall be consid-
2 ered a reference to the Postal Regulatory Commission.

3 **TITLE II—NEW SYSTEM RELAT-**
4 **ING TO POSTAL RATES,**
5 **CLASSES, AND SERVICES**
6 **Subtitle A—In General**

7 **SEC. 201. ESTABLISHMENT.**

8 (a) IN GENERAL.—Title 39, United States Code, is
9 amended by adding after chapter 36 the following:

10 **“CHAPTER 37—NEW SYSTEM FOR ESTABLISHING**
11 **POSTAL RATES, CLASSES, AND SERVICES**

“SUBCHAPTER I—DEFINITIONS

“Sec.

“3701. Definitions.

“3702. Free mailing privileges unaffected.

“SUBCHAPTER II—BASELINE RATES

“3721. Determination of baseline rates.

“3722. Provisions relating to reduced-rate categories of mail.

“3723. Automatic termination of any rate case that may be pending.

“SUBCHAPTER III—RATES FOR PRODUCTS IN THE
NONCOMPETITIVE CATEGORY OF MAIL

“3731. Applicability; definitions.

“3732. Limitations on rates.

“3733. Adjustment factor.

“3734. Action of the Board.

“SUBCHAPTER IV—RATES FOR PRODUCTS IN THE COMPETITIVE
CATEGORY OF MAIL

“3741. Applicability; definition.

“3742. Action of the Board.

“3743. Provisions applicable to competitive products individually.

“3744. Provisions applicable to competitive products collectively.

“SUBCHAPTER V—MARKET TESTS OF EXPERIMENTAL PRODUCTS

“3751. Market tests of experimental noncompetitive products.

“3752. Market tests of experimental competitive products.

“3753. Large-scale market tests.

- “3754. Adjustment for inflation.
- “3755. Conversion to permanence.
- “3756. Effective date.

“SUBCHAPTER VI—PROVISIONS RELATING TO THE
INTRODUCTION AND CATEGORIZATION OF PRODUCTS

- “3761. Criteria for the identification of noncompetitive and competitive products.
- “3762. New noncompetitive products.
- “3763. New competitive products.
- “3764. Transfers of products between categories of mail.
- “3765. Transition provisions for new or transferred noncompetitive products.

“SUBCHAPTER VII—REPORTING REQUIREMENTS AND RELATED
PROVISIONS

- “3771. Annual reports by the Commission.
- “3772. Annual reports to the Commission.
- “3773. Annual determination of compliance.
- “3774. Other reports.

1 “SUBCHAPTER I—DEFINITIONS

2 **“§ 3701. Definitions**

3 “For purposes of this chapter:

4 “(1) PRODUCT.—The term ‘product’ means a
5 class of mail or type of postal service, including—

6 “(A) a subclass or other similar subordi-
7 nate unit thereof; and

8 “(B) the next level of subordinate units
9 thereof (below the first level of subordinate
10 units, as referred to in subparagraph (A)).

11 “(2) RATE.—The term ‘rate’, as used with re-
12 spect to any products, includes fees for postal serv-
13 ices.

14 “(3) PRODUCT IN THE NONCOMPETITIVE CAT-
15 EGORY OF MAIL.—The term ‘product in the non-

1 competitive category of mail’ or ‘noncompetitive
2 product’ means a product subject to subchapter III.

3 “(4) PRODUCT IN THE COMPETITIVE CATEGORY
4 OF MAIL.—The term ‘product in the competitive cat-
5 egory of mail’ or ‘competitive product’ means a
6 product subject to subchapter IV.

7 “(5) CONSUMER PRICE INDEX.—The term
8 ‘Consumer Price Index’ means the Consumer Price
9 Index for All Urban Consumers published monthly
10 by the Bureau of Labor Statistics of the Depart-
11 ment of Labor.

12 “(6) YEAR.—The term ‘year’ means a fiscal
13 year.

14 **“§ 3702. Free mailing privileges unaffected**

15 “Nothing in this chapter shall be considered to affect
16 any free mailing privileges accorded under any of sections
17 3217 or 3403 through 3406.

18 **“SUBCHAPTER II—BASELINE RATES**

19 **“§ 3721. Determination of baseline rates**

20 “(a) REQUIREMENT THAT A RATEMAKING REQUEST
21 BE MADE.—The Postal Service shall, during the 18-
22 month period beginning on the date of enactment of this
23 chapter, submit a request under section 3622 for a rec-
24 ommended decision by the Postal Regulatory Commission
25 on rates for all products in the noncompetitive category

1 of mail and all products in the competitive category of
2 mail.

3 “(b) POLICIES AND CRITERIA.—The request under
4 subsection (a) shall be made in accordance with the same
5 policies and criteria as would otherwise apply in the case
6 of a request made under section 3622, except that—

7 “(1) in applying section 3621, any determina-
8 tion of total estimated costs of the Postal Service
9 shall be made without including any provision for
10 contingencies; and

11 “(2) to the extent that any class of mail or kind
12 of mailer under section 3626(a) is involved, such re-
13 quest shall be made in conformance with the re-
14 quirements of section 3722.

15 “(c) PROCEDURES FOR CONSIDERATION.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided in subsection (b) or any other provision of this
18 subchapter, the request made under subsection (a)
19 shall be considered and acted on in the same way as
20 any other request made under section 3622.

21 “(2) ADDITIONAL AUTHORITY.—For purposes
22 of the request made under subsection (a), section
23 3622(b) shall be applied as if it had been amended
24 by inserting after ‘the policies of this title’ the fol-

1 lowing: ‘(including the second sentence of section
2 3621)’.

3 “(d) EFFECTIVE DATE OF ANY RATES ESTAB-
4 LISHED PURSUANT TO REQUEST.—All rates established
5 pursuant to the request made under subsection (a) shall
6 take effect as of the same date, determined in accordance
7 with applicable provisions of chapter 36, but in no event
8 later than the last day of the 18-month period beginning
9 on the date on which such request is made.

10 “(e) DEFINITION OF BASELINE RATES.—

11 “(1) IN GENERAL.—Subject to section 3722(c),
12 for purposes of this title, the baseline rate for each
13 product shall be the rate in effect for such product
14 as of the applicable date under paragraph (2), irre-
15 spective of whether—

16 “(A) any rate change is in fact requested
17 for such product under subsection (a);

18 “(B) ratemaking proceedings are in fact
19 completed by such date; or

20 “(C) the rate in effect for such product as
21 of such date is a permanent or temporary one.

22 “(2) DATE AS OF WHICH BASELINE RATES ARE
23 TO BE DETERMINED.—The applicable date under
24 this paragraph shall be—

1 “(A) the date as of which any baseline
2 rates, established pursuant to the request made
3 under subsection (a), are to take effect in ac-
4 cordance with subsection (d); or

5 “(B) if subparagraph (A) does not apply
6 (whether because proceedings under chapter 36
7 are not completed before the deadline under
8 subsection (d) or otherwise), the last day of the
9 18-month period referred to in subsection (d).

10 **“§ 3722. Provisions relating to reduced-rate cat-**
11 **egories of mail**

12 “(a) DEFINITIONS.—For purposes of this section, the
13 terms ‘costs attributable’ and ‘regular-rate category’ have
14 the same meanings as are given them by section 3626(a).

15 “(b) REQUIREMENT.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of this title (but subject to paragraph (3)),
18 the rate established under this chapter for a product
19 within a reduced-rate category of mail (as referred
20 to in section 3721(b)(2)), including the baseline rate
21 therefor (if applicable), may not exceed—

22 “(A) in the case of a competitive product,
23 the rate described in paragraph (2); or

24 “(B) in the case of a noncompetitive prod-
25 uct, the lesser of—

1 “(i) the rate described in paragraph
2 (2); or

3 “(ii) the highest rate allowable for
4 such product under subsection (c) or (d) of
5 section 3732, whichever is less.

6 “(2) RATE DESCRIBED.—The rate described in
7 this paragraph is, with respect to any product, the
8 rate that would then be in effect for such product
9 if established under section 3626(a) in conformance
10 with the requirement that—

11 “(A) the estimated costs attributable (ex-
12 pressed on a per-unit basis) used in establishing
13 such rate, not exceed

14 “(B) the estimated costs attributable
15 (similarly expressed) used in establishing the
16 rate that is to be concurrently in effect for the
17 same product within the most closely cor-
18 responding regular-rate category.

19 “(3) NONCOMPETITIVE PRODUCT MINIMUM.—
20 Nothing in this subsection shall be considered to
21 waive the limitation set forth in section 3732(b) (re-
22 lating to the minimum rate required for a non-
23 competitive product).

24 “(c) SELF-EXECUTING CORRECTION MECHANISM.—
25 If the baseline rate for a product would not otherwise be

1 in compliance with subsection (b), such rate shall be re-
2 duced by the minimum amount necessary in order to
3 achieve compliance.

4 **“§ 3723. Automatic termination of any rate case that**
5 **may be pending**

6 “To the extent that any proceedings relating to a re-
7 quest made under section 3622 before the date of enact-
8 ment of this chapter remain pending as of such date of
9 enactment, any further action taken in connection with
10 such request shall be null and void.

11 “SUBCHAPTER III—RATES FOR PRODUCTS IN
12 THE NONCOMPETITIVE CATEGORY OF MAIL

13 **“§ 3731. Applicability; definitions**

14 “(a) APPLICABILITY.—This subchapter applies with
15 respect to the products in the first, second, third, and
16 fourth baskets of products, respectively.

17 “(b) DEFINITIONS.—For purposes of this sub-
18 chapter:

19 “(1) FIRST BASKET OF PRODUCTS.—The term
20 ‘first basket of products’ means—

21 “(A) single-piece first-class letters (both
22 domestic and international);

23 “(B) single-piece first-class cards (both do-
24 mestic and international);

1 “(C) single-piece parcels (both domestic
2 and international); and

3 “(D) special services.

4 “(2) SECOND BASKET OF PRODUCTS.—The
5 term ‘second basket of products’ means all first-class
6 mail not in the first basket of products.

7 “(3) THIRD BASKET OF PRODUCTS.—The term
8 ‘third basket of products’ means periodicals.

9 “(4) FOURTH BASKET OF PRODUCTS.—The
10 term ‘fourth basket of products’ means standard
11 mail (except for parcel post).

12 “(c) RULE OF CONSTRUCTION.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), mail matter referred to in paragraphs (1)
15 through (4) of subsection (b) shall, for purposes of
16 such paragraphs, be considered to have the respec-
17 tive meanings given them under the mail classifica-
18 tion schedule (as defined by section 3623) as of the
19 effective date of this chapter.

20 “(2) UPDATES.—The Postal Regulatory Com-
21 mission shall, whenever any relevant change occurs
22 (whether pursuant to a product transfer under sec-
23 tion 3764, the reclassification of a product under
24 section 3623, or the introduction of a new non-
25 competitive product under section 3762), prescribe

1 new lists of products within the respective baskets
2 described in subsection (b). The revised lists shall
3 indicate how and when any previous lists (including
4 under subsection (b)) are superseded, and shall be
5 published in the Federal Register.

6 **“§ 3732. Limitations on rates**

7 “(a) IN GENERAL.—Except as otherwise provided in
8 this subchapter, the rate in effect for a noncompetitive
9 product may not, during any year in a ratemaking cycle
10 (as defined in section 3733(a))—

11 “(1) be less than the minimum rate required
12 for such product in such year, as determined under
13 subsection (b);

14 “(2) be greater than the maximum rate allow-
15 able for such product in such year, as determined
16 under subsection (c); or

17 “(3) be changed by a percentage that would
18 cause such rate to fall outside of the range allowable
19 for such product in such year, as determined under
20 subsection (d).

21 Nothing in paragraph (3) shall be considered to authorize
22 the establishment of any rate less than the minimum rate
23 required under paragraph (1) or greater than the maxi-
24 mum rate allowable under paragraph (2).

1 “(b) MINIMUM RATE REQUIRED.—For purposes of
2 this section, the minimum rate required for a product in
3 a year is the minimum rate which, if kept in effect for
4 such product throughout the year (or, if implemented after
5 the start of the year, throughout the remainder of the
6 year, but taking into account all revenues from such prod-
7 uct that are attributable to earlier periods in the same
8 year) will be sufficient to ensure that such product will
9 bear the direct and indirect postal costs attributable to
10 such product for such year.

11 “(c) MAXIMUM RATE ALLOWABLE.—

12 “(1) IN GENERAL.—For purposes of this sec-
13 tion, the maximum rate allowable for a product in
14 a year shall be equal to the rate determined by in-
15 creasing or decreasing (as applicable)—

16 “(A) the maximum rate allowable for such
17 product under this subsection in the year pre-
18 ceding the year for which the maximum rate al-
19 lowable is being determined (disregarding any
20 rounding rules), by

21 “(B) the percentage adjustment applicable
22 for the year for which the maximum rate allow-
23 able is being determined, as determined under
24 paragraph (2).

1 “(2) PERCENTAGE ADJUSTMENT APPLICA-
2 BLE.—For purposes of this section, the percentage
3 adjustment applicable shall, for any year, be equal
4 to—

5 “(A) the change in the Consumer Price
6 Index for such year, adjusted by

7 “(B) the adjustment factor for such year.

8 “(3) DEFINITIONS.—For purposes of this sec-
9 tion:

10 “(A) CHANGE IN THE CONSUMER PRICE
11 INDEX.—The change in the Consumer Price
12 Index for a year shall be equal to the percent-
13 age (expressed as a positive value, a negative
14 value, or zero, as the case may be) by which the
15 Consumer Price Index for the preceding year
16 differs from the Consumer Price Index for the
17 second preceding year.

18 “(B) CONSUMER PRICE INDEX FOR A
19 YEAR.—The Consumer Price Index for a year is
20 the average of the Consumer Price Index for
21 the 12-month period ending on June 30th of
22 such year.

23 “(C) ADJUSTMENT FACTOR.—The adjust-
24 ment factor for any year shall be determined in
25 accordance with section 3733.

1 “(4) SPECIAL RULE.—For purposes of deter-
2 mining the maximum rate allowable for any particu-
3 lar product during the first year of the first rate-
4 making cycle, paragraph (1)(A) shall be applied by
5 substituting ‘the baseline rate for such product’ for
6 ‘the maximum rate allowable for such product under
7 this subsection in the year preceding the year for
8 which the maximum rate allowable is being deter-
9 mined (disregarding any rounding rules)’.

10 “(5) ROUNDING RULE.—The maximum rate al-
11 lowable for a product within the first basket of prod-
12 ucts shall be equal to the rate determined for such
13 product under this subsection (disregarding this
14 paragraph), rounded to the nearest cent (rounding
15 $\frac{1}{2}$ of a cent to the next higher cent).

16 “(d) RANGE ALLOWABLE.—For purposes of this sec-
17 tion, the range allowable for a product in any year is the
18 range delimited by—

19 “(1) a maximum rate equal to the rate deter-
20 mined by increasing or decreasing (as applicable)—

21 “(A) the rate last in effect for such prod-
22 uct before the start of such year, by

23 “(B) the percentage equal to the percent-
24 age adjustment applicable with respect to such
25 product for such year, plus 2 percent; and

1 “(2) a minimum rate equal to the rate deter-
2 mined by increasing or decreasing (as applicable)—

3 “(A) the rate last in effect for such prod-
4 uct before the start of such year, by

5 “(B) the percentage equal to the percent-
6 age adjustment applicable with respect to such
7 product for such year, minus 2 percent.

8 For purposes of applying paragraphs (1)(B) and (2)(B)
9 in any year, the Board of Directors may, in a manner con-
10 sistent with the policies of this title and the requirements
11 of this subchapter, establish a single percentage which
12 shall be lower than, and which shall be substituted for,
13 the percentage adjustment applicable that would otherwise
14 be applied under both of those paragraphs in such year.

15 **“§ 3733. Adjustment factor**

16 “(a) DEFINITION OF RATEMAKING CYCLE.—

17 “(1) IN GENERAL.—For purposes of this title,
18 the term ‘ratemaking cycle’ means—

19 “(A) the 5-year period beginning on the
20 first day of the second year beginning after the
21 date as of which the baseline rates are deter-
22 mined under section 3721(e)(2); and

23 “(B) each 5-year period beginning on the
24 day after the last day of the immediately pre-
25 ceding 5-year period under this subsection.

1 “(2) EARLIER COMMENCEMENT DATE.—The
2 Postal Regulatory Commission may advance the
3 commencement date of the first ratemaking cycle to
4 the date which occurs 1 year earlier than the date
5 that would otherwise apply under subparagraph
6 (1)(A), but only if that earlier date does not precede
7 the date as of which all requirements of this section
8 have been completed with respect to such cycle.

9 “(b) PROCEDURES FOR DETERMINING ADJUSTMENT
10 FACTOR.—

11 “(1) COMMENCEMENT OF PROCEEDINGS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the Postal Regulatory Com-
14 mission shall, beginning in September of the
15 second year before the start of each ratemaking
16 cycle, provide the opportunity for a hearing on
17 the record under sections 556 and 557 of title
18 5 to the Postal Service, users of the mails, and
19 an officer of the Commission who shall be re-
20 quired to represent the interests of the general
21 public, with respect to the adjustment factor to
22 be established for the upcoming ratemaking
23 cycle.

24 “(B) EXCEPTION.—For purposes of the
25 first hearing under this subsection, proceedings

1 shall be commenced during the second month
2 beginning on or after the date as of which the
3 baseline rates are determined under section
4 3721(e)(2).

5 “(2) RULES OF PROCEEDINGS.—In order to
6 conduct its proceedings with utmost expedition con-
7 sistent with procedural fairness to the parties, the
8 Commission may (without limitation) adopt rules
9 which provide for—

10 “(A) the advance submission of written di-
11 rect testimony;

12 “(B) the conduct of prehearing conferences
13 to define issues, and for other purposes to in-
14 sure orderly and expeditious proceedings;

15 “(C) discovery both from the Postal Serv-
16 ice and the parties to the proceedings;

17 “(D) limitation of testimony; and

18 “(E) the conduct of the entire proceedings
19 off the record with the consent of the parties.

20 “(3) PRINTING AND NOTICE REQUIREMENTS.—

21 The Commission’s decision and the record of the
22 Commission’s hearings shall be made generally avail-
23 able at the time the decision is issued and shall be
24 printed and made available for sale by the Public

1 Printer within 10 days following the day the decision
2 is issued.

3 “(4) TIMING.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), all actions required of the
6 Commission under this section, including those
7 required under paragraph (3), shall be com-
8 pleted by the end of the year preceding the
9 commencement of the ratemaking cycle to
10 which the decision relates.

11 “(B) EXCEPTION.—In any case in which
12 the Commission determines that the Postal
13 Service has unreasonably delayed any proceed-
14 ings under this section by failing to respond
15 within a reasonable time to any lawful order of
16 the Commission, the Commission may extend
17 the deadline described in subparagraph (A) by
18 one day for each day of such delay.

19 “(C) EFFECT OF DELAY ON RATEMAKING
20 AUTHORITY.—No rate change for any non-
21 competitive product may take effect during any
22 period of delay. For purposes of the preceding
23 sentence, the term ‘period of delay’ means, in
24 the circumstance described in subparagraph
25 (B), the period beginning on the day following

1 the original deadline (as described in subpara-
2 graph (A)) and ending on the date of the new
3 deadline (as determined under subparagraph
4 (B)).

5 “(c) REQUIREMENTS RELATING TO THE ESTABLISH-
6 MENT OF ADJUSTMENT FACTOR.—

7 “(1) IN GENERAL.—An adjustment factor shall
8 be established in accordance with—

9 “(A) the policies of this title; and

10 “(B) the best evidence of likely Postal
11 Service productivity, and of specific sources of
12 cost savings to the Postal Service, during the
13 ratemaking cycle to which an adjustment factor
14 is to apply.

15 “(2) REQUIREMENT THAT ADJUSTMENT FAC-
16 TOR BE A NEGATIVE VALUE OR ZERO.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), an adjustment factor may be
19 no greater than zero.

20 “(B) EXCEPTIONS.—A positive adjustment
21 factor may be established only upon a written
22 determination by the Postal Regulatory Com-
23 mission that an exception to subparagraph (A)
24 is necessary—

1 “(i) because of any new and signifi-
2 cant statutorily imposed funding obliga-
3 tions not fully funded through appropria-
4 tions; or

5 “(ii) because postal revenues during
6 the upcoming ratemaking cycle would oth-
7 erwise be insufficient to enable the Postal
8 Service, under best practices of honest, ef-
9 ficient, and economical management, to
10 maintain and continue the development of
11 postal services of the kind and quality
12 adapted to the needs of the United States.

13 A determination under clause (ii) shall take into
14 account costs anticipated by the Postal Service
15 for the period of time involved, such as wages,
16 benefits, and transportation costs.

17 “(d) SAME ADJUSTMENT FACTOR TO BE UNI-
18 FORMLY APPLIED TO ALL PRODUCTS.—For purposes of
19 each year in a ratemaking cycle, the same adjustment fac-
20 tor shall apply—

21 “(1) to all baskets under section 3731; and

22 “(2) to all products within each such basket.

23 “(e) HOW AN ADJUSTMENT FACTOR IS TO BE EX-
24 PRESSED AND APPLIED.—

1 “(1) HOW AN ADJUSTMENT FACTOR IS TO BE
2 EXPRESSED.—An adjustment factor established
3 under this section shall be expressed as a percent-
4 age.

5 “(2) HOW AN ADJUSTMENT FACTOR IS TO BE
6 APPLIED.—To adjust a change in the Consumer
7 Price Index by an adjustment factor, the magnitude
8 of the adjustment factor shall—

9 “(A) if the adjustment factor is a positive
10 value, be added to the change in the Consumer
11 Price Index; or

12 “(B) if the adjustment factor is a negative
13 value, be subtracted from the change in the
14 Consumer Price Index.

15 “(f) EXIGENT CIRCUMSTANCES.—

16 “(1) IN GENERAL.—Notwithstanding subsection
17 (d), upon a majority vote of the members of the
18 Board of Directors then holding office, the Postal
19 Service may request the Postal Regulatory Commis-
20 sion to render a decision on changing the adjust-
21 ment factor to be applied during the then current
22 ratemaking cycle (after having previously been es-
23 tablished under this section for such cycle).

24 “(2) CONDITIONS.—A request made under
25 paragraph (1) may be granted only upon a written

1 determination by the Commission that the change
2 requested is justified by one or more of the same
3 reasons as would justify the establishment of a posi-
4 tive adjustment factor (as set forth in subsection
5 (c)(2)(B)).

6 “(3) EFFECT; DURATION.—A change granted
7 under this subsection—

8 “(A) shall supersede the adjustment factor
9 that would otherwise apply under this section
10 (with appropriate changes to the respective lim-
11 itations under paragraphs (2) and (3) of section
12 3732(a)); and

13 “(B) shall remain in effect for the rest of
14 the ratemaking cycle involved, subject to para-
15 graph (5).

16 “(4) EXPEDITED CONSIDERATION.—A request
17 made under paragraph (1) shall be acted on under
18 this section in the same manner as if initiated under
19 subsection (b)(1), except that a decision on any such
20 request shall be rendered not later than 6 months
21 after the date on which the request is made.

22 “(5) FREQUENCY.—Nothing in this section
23 shall be considered to limit the number of times this
24 subsection may be invoked during a ratemaking
25 cycle.

1 **“§ 3734. Action of the Board**

2 “(a) AUTHORITY TO ESTABLISH RATES.—The
3 Board of Directors, with the written concurrence of a ma-
4 jority of all of the members of the Board then holding
5 office, shall establish rates for products in the noncompeti-
6 tive category of mail in accordance with the requirements
7 of this subchapter and the policies of this title.

8 “(b) PROCEDURES.—

9 “(1) IN GENERAL.—Rates shall be established
10 in writing, complete with a statement of explanation
11 and justification.

12 “(2) PUBLICATION.—The Board shall cause
13 each such decision (complete with the accompanying
14 statement) and the record of the Board’s proceed-
15 ings to be published in the Federal Register at least
16 45 days before the rate or rates to which they per-
17 tain are to take effect.

18 “(c) LIMITATIONS ON AUTHORITY.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2)—

21 “(A) FREQUENCY.—Ratemaking authority
22 under this section may not be exercised more
23 than once for purposes of any year.

24 “(B) UNIFORM EFFECTIVE DATE.—All
25 changes in rates pursuant to this section in a
26 year shall take effect on the same date.

1 “(2) EXCEPTION FOR CHANGE DUE TO EXI-
2 GENT CIRCUMSTANCES.—

3 “(A) IN GENERAL.—If the maximum rate
4 allowable for a product in a year changes pur-
5 suant to a request granted under section
6 3733(f), then, in the event that ratemaking au-
7 thority under this section was previously exer-
8 cised with respect to such product for such
9 year, such rate may be modified, not more than
10 once more in such year, based on the change in
11 the maximum rate allowable (and the cor-
12 responding change in the range allowable).

13 “(B) UNIFORM EFFECTIVE DATE.—All
14 changes in rates pursuant to this paragraph
15 shall, to the extent based on the same set of
16 changes (as referred to in subparagraph (A)),
17 take effect beginning on the same date.

18 “SUBCHAPTER IV—RATES FOR PRODUCTS IN
19 THE COMPETITIVE CATEGORY OF MAIL

20 **“§ 3741. Applicability; definition**

21 “(a) APPLICABILITY.—This subchapter applies with
22 respect to—

23 “(1) priority mail;

24 “(2) expedited mail;

25 “(3) mailgrams;

1 “(4) international mail; and
2 “(5) parcel post;
3 except that this subchapter does not apply with respect
4 to any product then currently in the noncompetitive cat-
5 egory of mail.

6 “(b) DEFINITION.—For purposes of this subchapter,
7 the term ‘costs attributable’, as used with respect to a
8 product, means the direct and indirect postal costs attrib-
9 utable to such product.

10 “(c) RULE OF CONSTRUCTION.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), mail matter referred to in paragraphs (1)
13 through (5) of subsection (a) shall, for purposes of
14 such paragraphs, be considered to have the respec-
15 tive meanings given them under the mail classifica-
16 tion schedule (as defined by section 3623) as of the
17 effective date of this chapter.

18 “(2) UPDATES.—The Postal Regulatory Com-
19 mission shall, whenever any relevant change occurs
20 (whether pursuant to a product transfer under sec-
21 tion 3764 or an action taken under section 3763),
22 prescribe new lists of the products to which this sub-
23 chapter applies. The revised lists shall indicate how
24 and when any previous lists (including under sub-

1 section (a)) are superseded, and shall be published
2 in the Federal Register.

3 **“§ 3742. Action of the Board**

4 “(a) AUTHORITY TO ESTABLISH RATES.—The
5 Board of Directors, with the written concurrence of a ma-
6 jority of all of the members of the Board then holding
7 office, shall establish rates for products in the competitive
8 category of mail in accordance with the requirements of
9 this subchapter and the policies of this title.

10 “(b) PROCEDURES.—Section 3734(b) shall apply
11 with respect to rates and decisions under this section, ex-
12 cept that for purposes of this section, section 3734(b) shall
13 be applied by substituting ‘by such date before the effec-
14 tive date of any new rates as the Board considers appro-
15 priate’ for ‘at least 45 days before the rate or rates to
16 which they pertain are to take effect’.

17 “(c) EFFECTIVE DATE.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), the ratemaking provisions of this sub-
20 chapter shall be effective beginning with the rates to
21 be established for the first year beginning on or
22 after the date as of which the baseline rates are de-
23 termined under section 3721(e)(2).

24 “(2) EXCEPTION.—The ratemaking provisions
25 of this subchapter shall, with respect to all inter-

1 national mail as to which this subchapter applies, be
2 effective beginning on the date as of which the base-
3 line rates are determined under section 3721(e)(2),
4 subject (until the entirety of this subchapter be-
5 comes effective in accordance with paragraph (1))
6 only to the requirement under section 3743(a).

7 **“§ 3743. Provisions applicable to competitive prod-**
8 **ucts individually**

9 “(a) IN GENERAL.—Rates for products in the com-
10 petitive category of mail shall be established in a manner
11 such that each such product shall bear the costs attrib-
12 utable to such product in such year.

13 “(b) TREATMENT OF SHORTFALLS.—If revenues de-
14 rived from a competitive product in any year are not suffi-
15 cient to meet the costs attributable to such product for
16 such year, the shortfall shall be made up in accordance
17 with section 3744(c)(1).

18 “(c) MANDATORY DISCONTINUANCE OF LOSS-MAK-
19 ING PRODUCTS.—

20 “(1) IN GENERAL.—If a competitive product
21 persistently fails to cover the costs attributable to
22 such product, the Postal Regulatory Commission
23 may, in accordance with procedures which the Com-
24 mission shall prescribe and after considering all rel-

1 evant circumstances, order the Postal Service to dis-
2 continue such product permanently.

3 “(2) PROCEDURES.—The procedures prescribed
4 to carry out this subsection—

5 “(A) shall provide the opportunity for a
6 hearing on the record under sections 556 and
7 557 of title 5 to the Postal Service, users of the
8 mail, and an officer of the Commission who
9 shall be required to represent the interests of
10 the general public;

11 “(B) may include rules of proceedings that
12 provide for any procedure or other matter listed
13 under section 3733(b)(2); and

14 “(C) shall require that any final decision
15 be accompanied by a statement setting forth
16 the reasons therefor.

17 **“§ 3744. Provisions applicable to competitive prod-**
18 **ucts collectively**

19 “(a) COST-COVERAGE REQUIREMENT.—

20 “(1) IN GENERAL.—Rates for competitive prod-
21 ucts shall be established in a manner such that the
22 cost-coverage ratio for all competitive products (col-
23 lectively) shall, for each year to which this sub-
24 chapter applies (as referred to in section 3742(c)),
25 be at least equal to the cost-coverage ratio for such

1 year for all competitive and noncompetitive products
2 (collectively).

3 “(2) COST-COVERAGE RATIO.—For purposes of
4 this section, the term ‘cost-coverage ratio’ means,
5 for the products and year involved, the ratio that—

6 “(A) total revenues from those products in
7 such year, bears to

8 “(B) total costs attributable to those prod-
9 ucts in such year.

10 “(b) ADJUSTMENT FOR SPECIAL CIRCUMSTANCES.—
11 The Postal Regulatory Commission may, by rule, and in
12 order to ensure that ratios under this section appro-
13 priately compensate for any significant and objective dif-
14 ferences in the nature and composition of costs attrib-
15 utable to competitive and noncompetitive products, respec-
16 tively, provide for the exclusion of such costs attributable
17 as the Commission considers to be uniquely or dispropor-
18 tionately associated with either category of products.

19 “(c) SPECIAL RULES TO MAKE UP FOR CERTAIN
20 SHORTFALLS.—

21 “(1) SUBTRACTION TO MAKE UP FOR ANY
22 SHORTFALL DESCRIBED IN SECTION 3743(b).—In
23 any year in which a shortfall described in section
24 3743(b) occurs in the case of any competitive prod-
25 uct, an amount equal to the amount of such shortfall

1 shall, for purposes of determining whether the re-
2 quirement under subsection (a) has been satisfied in
3 such year, be subtracted from total revenues derived
4 from all competitive products (collectively) in such
5 year. Nothing in the preceding sentence shall be con-
6 sidered to permit or require that the same amount
7 be concurrently subtracted from total revenues de-
8 rived from competitive and noncompetitive products
9 (collectively).

10 “(2) SUBTRACTION TO MAKE UP FOR ANY
11 SHORTFALL IN CONTRIBUTIONS TOWARD INSTITU-
12 TIONAL COSTS IN A PREVIOUS YEAR.—If, in any
13 year, the requirement under subsection (a) is not
14 met (determined applying the provisions of sub-
15 section (b), paragraph (1), and this paragraph based
16 on any failure to satisfy subsection (a) in the pre-
17 vious year), the difference between the total revenues
18 considered to have been derived from competitive
19 products in the year involved (determined applying
20 such provisions), and the minimum amount of total
21 revenues from competitive products which would
22 have been required in order to satisfy subsection (a)
23 (determined applying such provisions), shall, for pur-
24 poses of determining whether the requirement under
25 subsection (a) is met in the following year, be sub-

1 tracted from total revenues derived from competitive
2 products (collectively) in such following year. Noth-
3 ing in the preceding sentence shall be considered to
4 permit or require that the same amount be concur-
5 rently subtracted from total revenues derived from
6 competitive and noncompetitive products (collec-
7 tively).

8 “(d) PHASEIN AUTHORITY.—If necessary in order to
9 afford the Postal Service an opportunity to increase effi-
10 ciency to competitive market levels, the Postal Regulatory
11 Commission may, by written determination made as part
12 of its first adjustment factor case under section 3733, pro-
13 vide for the phasein of subsection (a) over the course of
14 the first ratemaking cycle. If the Commission grants relief
15 under this subsection, it shall review the continuing need
16 for and the extent of such relief annually.

17 “SUBCHAPTER V—MARKET TESTS OF
18 EXPERIMENTAL PRODUCTS
19 **“§ 3751. Market tests of experimental noncompetitive**
20 **products**

21 “(a) AUTHORITY.—

22 “(1) IN GENERAL.—The Postal Service may
23 conduct market tests of experimental noncompetitive
24 products in accordance with this section.

1 “(2) PROVISIONS WAIVED.—A product shall
2 not, while it is being tested under this section, be
3 subject to the requirements of section 3623 (relating
4 to mail classification), section 3732 (relating to limi-
5 tations on rates), or section 3762 (relating to new
6 noncompetitive products).

7 “(b) CONDITIONS.—A product may not be tested
8 under this section unless it satisfies each of the following:

9 “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—
10 The product is, from the viewpoint of mail users,
11 significantly different from all products offered by
12 the Postal Service within the 2-year period preceding
13 the start of the test.

14 “(2) DOLLAR-AMOUNT LIMITATION.—The total
15 revenues that are anticipated, or in fact received, by
16 the Postal Service from such product do not exceed
17 \$10,000,000 in any year, subject to section 3754.

18 “(3) MARKET DISRUPTION.—The introduction
19 or continued offering of the product will not cause
20 unreasonable market disruption (either for competi-
21 tive or noncompetitive products).

22 “(4) CORRECT CATEGORIZATION.—The testing
23 of the product under this section is consistent with
24 the criteria under section 3761(b)(2).

1 “(c) NOTICE.—At least 30 days before initiating a
2 market test under this section, the Postal Service shall
3 file with the Postal Regulatory Commission and publish
4 in the Federal Register a notice setting out the basis for
5 the Postal Service’s determination that the market test is
6 covered by this section and describing the nature and
7 scope of the market test.

8 “(d) DURATION.—

9 “(1) IN GENERAL.—A market test of a product
10 under this section may be conducted over a period
11 of not to exceed 24 months.

12 “(2) EXTENSION AUTHORITY.—If necessary in
13 order to determine the feasibility or desirability of a
14 product being tested under this section, the Postal
15 Regulatory Commission may, upon written applica-
16 tion of the Postal Service (filed not later than 60
17 days before the date as of which the testing of such
18 product would otherwise be scheduled to terminate
19 under paragraph (1)), extend the testing of such
20 product for not to exceed an additional 12 months.

21 “(e) CANCELLATION.—If the Postal Regulatory Com-
22 mission at any time determines that a market test under
23 this section fails, with respect to any particular product,
24 to meet one or more of the conditions set forth in sub-
25 section (b), it may issue any order that would be allowable

1 under section 3662(c)(6). A determination under this sub-
2 section shall be made in accordance with such procedures
3 as the Commission shall by regulation prescribe.

4 **“§ 3752. Market tests of experimental competitive**
5 **products**

6 “(a) AUTHORITY.—

7 “(1) IN GENERAL.—The Postal Service may
8 conduct market tests of experimental competitive
9 products in accordance with this section.

10 “(2) PROVISIONS WAIVED.—Any noncompliance
11 with section 3743(a) (relating to costs-attributable
12 requirement) on the part of a product shall not, if
13 it occurs while such product is being tested under
14 this section, be taken into account for purposes of
15 any sanction or other action that might otherwise be
16 permitted or required under any of the following:

17 “(A) Section 3662(c)(3) (relating to order-
18 ing the adjustment of rates to lawful levels pur-
19 suant to a rate complaint).

20 “(B) Section 3743(c) (relating to manda-
21 tory discontinuance of loss-making products).

22 “(C) Section 3773(e) (relating to use of
23 profits).

24 “(3) PROVISIONS NOT WAIVED.—Nothing in
25 this section shall be considered to permit or require

1 the exclusion of any costs or revenues that are at-
2 tributable to a product that is being tested under
3 this section from any determination under section
4 3744 (relating to provisions applicable to competitive
5 products collectively).

6 “(b) CONDITIONS.—A product may not be tested
7 under this section unless it satisfies each of the following:

8 “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—

9 The product is, from the viewpoint of mail users,
10 significantly different from all products offered by
11 the Postal Service within the 2-year period preceding
12 the start of the test.

13 “(2) DOLLAR-AMOUNT LIMITATION.—The total
14 revenues that are anticipated, or in fact received, by
15 the Postal Service from such product do not exceed
16 \$10,000,000 in any year, subject to section 3754.

17 “(3) MARKET DISRUPTION.—The introduction
18 or continued offering of the product will not cause
19 unreasonable market disruption (either for competi-
20 tive or noncompetitive products).

21 “(4) CORRECT CATEGORIZATION.—The testing
22 of the product under this section is consistent with
23 the criteria under section 3761(b)(2).

24 “(c) NOTICE.—

1 “(1) IN GENERAL.—At least 30 days before ini-
2 tiating a market test under this section, the Postal
3 Service shall file with the Postal Regulatory Com-
4 mission and publish in the Federal Register a notice
5 setting out the basis for the Postal Service’s deter-
6 mination that the market test is covered by this sec-
7 tion and describing the nature and scope of the mar-
8 ket test.

9 “(2) SAFEGUARDS.—The provisions of section
10 3604(g) shall be available with respect to any infor-
11 mation required to be filed under paragraph (1) to
12 the same extent and in the same manner as in the
13 case of any matter described in section 3604(g)(1).
14 Nothing in paragraph (1) shall be considered to per-
15 mit or require the publication of any information as
16 to which confidential treatment is accorded under
17 the preceding sentence (subject to the same excep-
18 tion as set forth in section 3604(g)(3)).

19 “(d) DURATION.—

20 “(1) IN GENERAL.—A market test of a product
21 under this section may be conducted over a period
22 of not to exceed 24 months.

23 “(2) EXTENSION AUTHORITY.—If necessary in
24 order to determine the feasibility or desirability of a
25 product being tested under this section, the Postal

1 Regulatory Commission may, upon written applica-
2 tion of the Postal Service (filed not later than 60
3 days before the date as of which the testing of such
4 product would otherwise be scheduled to terminate
5 under paragraph (1)), extend the testing of such
6 product for not to exceed an additional 12 months.

7 “(e) CANCELLATION.—If the Postal Regulatory Com-
8 mission at any time determines that a market test under
9 this section fails, with respect to any particular product,
10 to meet one or more of the conditions set forth in sub-
11 section (b), it may issue any order that would be allowable
12 under section 3662(c)(6). A determination under this sub-
13 section shall be made in accordance with such procedures
14 as the Commission shall by regulation prescribe.

15 **“§ 3753. Large-scale market tests**

16 “(a) AUTHORITY.—The Postal Service may, in ac-
17 cordance with this section, conduct—

18 “(1) market tests involving any experimental
19 noncompetitive product that would be allowable
20 under section 3751 but for subsection (b)(2) thereof;
21 and

22 “(2) market tests involving any experimental
23 competitive product that would be allowable under
24 section 3752 but for subsection (b)(2) thereof.

1 “(b) CONDITION.—Notwithstanding any other provi-
2 sion of this section, a product may not be tested under
3 this section unless the total revenues that are anticipated,
4 or in fact received, by the Postal Service from such prod-
5 uct do not exceed \$100,000,000 in any year, subject to
6 section 3754.

7 “(c) PROVISIONS WAIVED.—Section 3751(a)(2) shall
8 apply with respect to an experimental noncompetitive
9 product being tested under this section, and section
10 3752(a)(2) shall apply with respect to an experimental
11 competitive product being tested under this section, as if
12 such test were instead being conducted section 3751 or
13 3752, as the case may be.

14 “(d) REGULATIONS.—The Postal Regulatory Com-
15 mission shall by regulation establish rules for the conduct
16 of market tests under this section, including rules for the
17 termination of any such test. In adopting rules under this
18 subsection, the Commission shall consider such matters
19 as—

20 “(1) the Postal Service’s interest in the develop-
21 ment and testing of new products with a minimum
22 of regulatory impediments; and

23 “(2) the public interest in preventing unfair or
24 disruptive competition.

25 “(e) DURATION.—

1 “(1) IN GENERAL.—A market test of a product
2 under this section may be conducted over a period
3 of not to exceed 24 months.

4 “(2) EXTENSION AUTHORITY.—If necessary in
5 order to determine the feasibility or desirability of a
6 product being tested under this section, the Postal
7 Regulatory Commission may, upon written applica-
8 tion of the Postal Service (filed not later than 60
9 days before the date as of which the testing of such
10 product would otherwise be scheduled to terminate
11 under paragraph (1)), extend the testing of such
12 product for not to exceed an additional 12 months.

13 **“§ 3754. Adjustment for inflation**

14 “In the case of a year following the first year in which
15 any testing under this subchapter is permitted, the dollar
16 amount contained in sections 3751(b)(2), 3752(b)(2), and
17 3753(b), respectively, shall be adjusted at the same time
18 and by the same percentage adjustment as the maximum
19 rates allowable for noncompetitive products are adjusted
20 pursuant to 3732(c) (but deeming the adjustment factor
21 under paragraph (2)(B) thereof to be zero for purposes
22 of this section).

23 **“§ 3755. Conversion to permanence**

24 “A request to have an experimental product under
25 this chapter converted to a permanent one—

1 “(1) shall be made and acted on in conformance
2 with applicable provisions of subchapter VI; and

3 “(2) shall be made by the Postal Service.

4 **“§ 3756. Effective date**

5 “Market tests under this subchapter may be con-
6 ducted in any year beginning with the first year beginning
7 on or after the date as of which the baseline rates are
8 determined under section 3721(e)(2).

9 “SUBCHAPTER VI—PROVISIONS RELATING TO
10 THE INTRODUCTION AND CATEGORIZATION
11 OF PRODUCTS

12 **“§ 3761. Criteria for the identification of noncompeti-**
13 **tive and competitive products**

14 “(a) IN GENERAL.—Except as provided in sub-
15 chapter V, no product may be offered until such product
16 has been assigned to the noncompetitive or competitive
17 category of mail, whichever is appropriate (and, if a non-
18 competitive product, its proper basket).

19 “(b) CRITERIA.—

20 “(1) IN GENERAL.—Determinations as to the
21 category of mail to which any particular product
22 should be assigned (whether in connection with a
23 new product under section 3762 or 3763, the pro-
24 posed transfer of a product under section 3764, or
25 the proposed reclassification of an existing product

1 under subchapter II of chapter 36) shall be made in
2 conformance with paragraph (2).

3 “(2) CHARACTERISTICS BY CATEGORY.—The
4 noncompetitive category of products shall embrace
5 all products in the sale of which the Postal Service
6 exercises sufficient market power that it can effec-
7 tively set the price of such product substantially
8 above costs or raise prices significantly without risk
9 of losing business to other firms offering similar
10 products, or that it can effectively set the price
11 below competitive costs to forestall entry by new
12 competitors or to eliminate existing competitors. The
13 competitive category of products shall embrace all
14 other products.

15 “(c) INITIAL AND UPDATED LISTS.—The respective
16 products which, as of any particular date, are within the
17 noncompetitive or competitive category of mail (and any
18 particular basket, if applicable) shall be as identified
19 under sections 3731 and 3741.

20 **“§ 3762. New noncompetitive products**

21 “(a) REQUEST.—The Postal Service—

22 “(1) may from time to time request that the
23 Postal Regulatory Commission submit a rec-
24 ommended decision on the classification for a new
25 noncompetitive product; and

1 “(2) shall, as part of any request made under
2 paragraph (1) (other than in the case of a trans-
3 ferred product), also request a recommended deci-
4 sion on the baseline rate for such product for pur-
5 poses of section 3765.

6 “(b) HEARINGS.—In response to any request made
7 by the Postal Service under this section, the Postal Regu-
8 latory Commission shall promptly initiate a proceeding in
9 accordance with the procedures set out in section 3624.

10 “(c) FACTORS AND RECOMMENDED DECISION.—The
11 Postal Regulatory Commission shall make a recommended
12 decision on (1) the baseline rate for the new product based
13 on the factors set out in section 3622(b), and (2) the clas-
14 sification for the new product based on the factors and
15 requirements under section 3623(b). Such recommended
16 decision shall be submitted to the Directors for action in
17 accordance with section 3625, and subject to review in ac-
18 cordance with section 3628(a).

19 **“§ 3763. New competitive products**

20 “(a) AUTHORITY.—The Postal Service may, in ac-
21 cordance with this section, offer a new competitive product
22 and, with respect to competitive products only, otherwise
23 make changes in the mail classification schedule.

24 “(b) CONDITIONS.—An action under this section may
25 not be taken unless it satisfies each of the following:

1 “(1) CRITERIA.—To the extent that the classi-
2 fication of a product is involved, the action would be
3 consistent with the criteria under section
4 3761(b)(2).

5 “(2) COSTS ATTRIBUTABLE.—To the extent
6 that the establishment of a rate for a competitive
7 product is involved, the requirement under section
8 3743(a) would be met.

9 “(c) NOTICE.—

10 “(1) IN GENERAL.—At least 30 days before it
11 offers a new competitive product or otherwise makes
12 any change in the mail classification schedule under
13 this section, the Postal Service shall file with the
14 Postal Regulatory Commission and publish in the
15 Federal Register a notice setting out the basis for
16 the Postal Service’s determination that the product
17 satisfies each of the conditions under subsection (b).

18 “(2) SAFEGUARDS.—The provisions of section
19 3604(g) shall be available with respect to any infor-
20 mation required to be filed under paragraph (1) to
21 the same extent and in the same manner as in the
22 case of any matter described in section 3604(g)(1).
23 Nothing in paragraph (1) shall be considered to per-
24 mit or require the publication of any information as
25 to which confidential treatment is accorded under

1 the preceding sentence (subject to the same excep-
2 tion as set forth in section 3604(g)(3)).

3 “(d) CANCELLATION.—If the Postal Regulatory
4 Commission determines that an action proposed to be
5 taken under this section fails to meet either of the condi-
6 tions set forth in subsection (b), the Commission shall, be-
7 fore the proposed action is scheduled to be taken or to
8 commence (as applicable), order that the proposed action
9 be canceled. A determination under this subsection shall
10 be made in accordance with such procedures as the Com-
11 mission shall by regulation prescribe.

12 **“§ 3764. Transfers of products between categories of**
13 **mail**

14 “(a) IN GENERAL.—Upon request of the Postal Serv-
15 ice or users of the mails, or upon its own initiative, the
16 Postal Regulatory Commission may, after proceedings
17 conducted in conformity with subsection (d), transfer 1
18 or more products—

19 “(1) from the noncompetitive category of mail
20 to the competitive category of mail; or

21 “(2) from the competitive category of mail to
22 the noncompetitive category of mail.

23 “(b) CRITERIA.—

24 “(1) IN GENERAL.—A decision under this sec-
25 tion shall be made in accordance with the policies of

1 this title and the criteria set forth in section
2 3761(b)(2).

3 “(2) EXCLUSION OF PRODUCTS COVERED BY
4 POSTAL MONOPOLY.—A product covered by the post-
5 al monopoly shall not be subject to transfer under
6 this section from the noncompetitive category of
7 mail. For purposes of the preceding sentence, the
8 term ‘product covered by the postal monopoly’
9 means any product the conveyance or transmission
10 of which, under section 1696 of title 18, is reserved
11 to the United States.

12 “(3) ADDITIONAL CONSIDERATIONS.—In mak-
13 ing any decision under this section, due regard shall
14 be given to—

15 “(A) the availability and nature of enter-
16 prises in the private sector engaged in the deliv-
17 ery of the product involved; and

18 “(B) the views of those who use the prod-
19 uct involved on the appropriateness of the pro-
20 posed action.

21 “(c) TRANSFERS OF SUBCLASSES AND OTHER SUB-
22 ORDINATE OR FURTHER SUBORDINATE UNITS ALLOW-
23 ABLE.—Nothing in this title shall be considered to prevent
24 transfers under this section from being made by reason
25 of the fact that they would involve only some (but not all)

1 of the subclasses or other subordinate or further subordi-
2 nate units of the class of mail or type of postal service
3 involved.

4 “(d) REQUIREMENTS.—Proceedings required to be
5 conducted in accordance with this subsection—

6 “(1) shall provide the opportunity for a hearing
7 on the record under sections 556 and 557 of title 5
8 to the Postal Service, users of the mail, and an offi-
9 cer of the Postal Regulatory Commission who shall
10 be required to represent the interests of the general
11 public;

12 “(2) may include rules of proceedings that pro-
13 vide for any procedure or other matter listed under
14 section 3733(b)(2); and

15 “(3) shall require that any final decision be ac-
16 companied by a statement setting forth the reasons
17 therefor.

18 Paragraph (3) of section 3733(b) (relating to printing and
19 notice requirements) shall apply with respect to each Com-
20 mission decision and related record of Commission hear-
21 ings under this section.

22 **“§ 3765. Transition provisions for new or transferred**
23 **noncompetitive products**

24 “(a) IN GENERAL.—In the case of a product that be-
25 comes assigned to the noncompetitive category of mail

1 under section 3762 or that is transferred from the com-
2 petitive to the noncompetitive category of mail under sec-
3 tion 3764—

4 “(1) the maximum rate initially allowable for
5 such product after that assignment or transfer shall
6 be determined in accordance with subsection (b);
7 and

8 “(2) the initial range allowable for such product
9 after that assignment or transfer shall be deter-
10 mined in accordance with subsection (c).

11 “(b) MAXIMUM RATE INITIALLY ALLOWABLE.—The
12 maximum rate allowable during the first year in which a
13 product subject to this subsection is offered shall be deter-
14 mined in a manner similar to the special rule under section
15 3732(c)(4), subject to the following:

16 “(1) TRANSFERRED PRODUCTS.—In the case of
17 any product that becomes a noncompetitive product
18 pursuant to a transfer under section 3764, the rate
19 last in effect for such product (before the effective
20 date of its transfer) shall be treated as its ‘baseline
21 rate’.

22 “(2) OTHER PRODUCTS.—In the case of any
23 product assigned to the noncompetitive category of
24 mail pursuant to section 3762, the ‘baseline rate’ for
25 such product shall be determined under subchapter

1 II of chapter 36 pursuant to the request made under
2 section 3762(a)(2) with respect thereto.

3 (c) RANGE INITIALLY ALLOWABLE.—The range al-
4 lowable during the first year in which a product subject
5 to this subsection is offered shall be determined in accord-
6 ance with section 3732(d), deeming the rate determined
7 for such product under subsection (b) of this section to
8 be the rate specified by paragraphs (1)(A) and (2)(A) of
9 section 3732(d).

10 “SUBCHAPTER VII—REPORTING
11 REQUIREMENTS AND RELATED PROVISIONS
12 **“§ 3771. Annual reports by the Commission**

13 “(a) IN GENERAL.—The Postal Regulatory Commis-
14 sion shall render an annual report to the President and
15 the Congress concerning the operations of the Commission
16 under this title.

17 “(b) ADDITIONAL INFORMATION.—In addition to the
18 information required under subsection (a), each report
19 under this section shall also include, with respect to the
20 period covered by such report, an estimate of the costs
21 incurred by the Postal Service in providing—

22 “(1) postal services to areas of the Nation
23 where, in the judgment of the Postal Regulatory
24 Commission, the Postal Service either would not
25 provide services at all or would not provide such

1 services in accordance with the requirements of this
2 title if the Postal Service were not required to pro-
3 vide prompt, reliable, and efficient services to pa-
4 trons in all areas and all communities, including as
5 required under the first sentence of section 101(b);

6 “(2) free or reduced rates for postal services as
7 required by this title; and

8 “(3) other public services or activities which, in
9 the judgment of the Postal Regulatory Commission,
10 would not otherwise have been provided by the Post-
11 al Service but for the requirements of law.

12 The Commission shall detail the bases for its estimates
13 and the statutory requirements giving rise to the costs
14 identified in each report under this section.

15 “(c) INFORMATION FROM POSTAL SERVICE.—The
16 Postal Service shall provide the Postal Regulatory Com-
17 mission with such information as may, in the judgment
18 of the Commission, be necessary in order for the Commis-
19 sion to prepare its reports under this section.

20 **“§ 3772. Annual reports to the Commission**

21 “(a) COSTS, REVENUES, AND RATES.—

22 “(1) IN GENERAL.—Except as provided in sub-
23 section (c), the Postal Service shall, no later than 90
24 days after the end of each year, prepare and submit
25 to the Postal Regulatory Commission a report (to-

1 gether with such nonpublic annex thereto as the
2 Commission may require under subsection (e)) ana-
3 lyzing costs, revenues, and rates in sufficient detail
4 to demonstrate that the rates in effect for all prod-
5 ucts during such year (including, for purposes of
6 section 3744, rates for all competitive products col-
7 lectively) complied with all applicable requirements
8 of this title.

9 “(2) AUDITING REQUIREMENT.—Before submit-
10 ting a report (and any annex thereto) under para-
11 graph (1), the Postal Service shall have the informa-
12 tion contained in such report (and annex) audited by
13 the Inspector General. The results of any such audit
14 shall be submitted along with the report to which it
15 pertains.

16 “(b) QUALITY OF SERVICES.—Except as provided in
17 subsection (c), the Postal Service shall, no later than 90
18 days after the end of each year, prepare and submit to
19 the Postal Regulatory Commission a report (together with
20 such nonpublic annex thereto as the Commission may re-
21 quire under subsection (e)) which shall, for each non-
22 competitive product provided in such year, provide—

23 “(1) market information, including mail vol-
24 umes; and

1 “(2) measures of the speed and reliability of
2 postal service, including—

3 “(A) the service standard applicable to
4 such product;

5 “(B) the actual level of service (described
6 in terms of speed of delivery and reliability)
7 provided; and

8 “(C) the degree of customer satisfaction
9 with the service provided.

10 “(c) MARKET TESTS.—In carrying out subsections
11 (a) and (b) with respect to experimental products offered
12 through market tests under subchapter V in a year—

13 “(1) the Postal Service may, to the extent that
14 a test under section 3751 or 3752 is involved, report
15 summary data on the costs, revenues, and quality of
16 service by market test; and

17 “(2) the Postal Service shall, to the extent that
18 a test under section 3753 is involved, report such
19 data as the Postal Regulatory Commission requires.

20 “(d) SUPPORTING MATTER.—The Postal Regulatory
21 Commission shall have access, in accordance with such
22 regulations as the Commission shall prescribe, to the
23 working papers and any other supporting matter of the
24 Postal Service and the Inspector General in connection
25 with any information submitted under this section.

1 “(e) CONTENT AND FORM OF REPORTS.—

2 “(1) IN GENERAL.—The Postal Regulatory
3 Commission shall, by regulation, prescribe the con-
4 tent and form of the public reports (and any non-
5 public annex and supporting matter relating thereto)
6 to be provided by the Postal Service under this sec-
7 tion. In carrying out this subsection, the Commis-
8 sion shall give due consideration to—

9 “(A) providing the public with adequate in-
10 formation to assess the lawfulness of rates
11 charged;

12 “(B) avoiding unnecessary or unwarranted
13 administrative effort and expense on the part of
14 the Postal Service; and

15 “(C) protecting the confidentiality of com-
16 mercially sensitive information.

17 “(2) REVISED REQUIREMENTS.—The Commis-
18 sion may, on its own motion or on request of an in-
19 terested party, initiate proceedings (to be conducted
20 in accordance with regulations that the Commission
21 shall prescribe) to improve the quality, accuracy, or
22 completeness of postal service data required by the
23 Commission under this subsection whenever it shall
24 appear that—

1 “(A) the attribution of costs or revenues to
2 postal products has become significantly inac-
3 curate or can be significantly improved;

4 “(B) the quality of service data has be-
5 come significantly inaccurate or can be signifi-
6 cantly improved; or

7 “(C) such revisions are, in the judgment of
8 the Commission, otherwise necessitated by the
9 public interest.

10 “(f) CONFIDENTIAL INFORMATION.—

11 “(1) IN GENERAL.—If the Postal Service deter-
12 mines that any document or portion of a document,
13 or other matter, which it provides to the Postal Reg-
14 ulatory Commission in a nonpublic annex under this
15 section or pursuant to subsection (d) contains infor-
16 mation which is described in section 410(c) of this
17 title, or exempt from public disclosure under section
18 552(b) of title 5, the Postal Service shall, at the
19 time of providing such matter to the Commission,
20 notify the Commission of its determination, in writ-
21 ing, and describe with particularity the documents
22 (or portions of documents) or other matter for which
23 confidentiality is sought and the reasons therefor.

24 “(2) TREATMENT.—Any information or other
25 matter described in paragraph (1) to which the

1 Commission gains access under this section shall be
2 subject to paragraphs (2) and (3) of section 3604(g)
3 in the same way as if the Commission had received
4 notification with respect to such matter under sec-
5 tion 3604(g)(1).

6 “(g) OTHER REPORTS.—The Postal Service shall
7 submit to the Postal Regulatory Commission, together
8 with any other submission that it is required to make
9 under this section in a year, copies of its then most re-
10 cent—

11 “(1) comprehensive statement under section
12 2401(e);

13 “(2) performance plan under section 2803; and

14 “(3) program performance reports under sec-
15 tion 2804.

16 **“§ 3773. Annual determination of compliance**

17 “(a) PROFITS DEFINED.—For purposes of this sec-
18 tion, the term ‘profits’, with respect to a year, means the
19 amount by which—

20 “(1) total revenues of the Postal Service attrib-
21 utable to such year, exceeds

22 “(2) total costs of the Postal Service (including
23 institutional costs) attributable to such year,
24 as determined based on the report under section 3772(a)
25 for such year.

1 “(b) OPPORTUNITY FOR PUBLIC COMMENT.—After
2 receiving the reports required under section 3772 for any
3 year, the Postal Regulatory Commission shall promptly
4 provide an opportunity for comment on such reports by
5 users of the mails, affected parties, and an officer of the
6 Commission who shall be required to represent the inter-
7 ests of the general public.

8 “(c) DETERMINATION OF COMPLIANCE.—Not later
9 than 90 days after receiving the submissions required
10 under section 3772 with respect to a year, the Postal Reg-
11 ulatory Commission shall make a written determination as
12 to whether—

13 “(1) any rates or fees in effect during such year
14 (for products individually or collectively) were not in
15 compliance with applicable provisions of this title;

16 “(2) any performance goals established under
17 section 2803 or 2804 for such year were not met;
18 and

19 “(3) any noncompetitive product failed to meet
20 any service standard during such year.

21 “(d) IF NO NONCOMPLIANCE IS FOUND.—If, for a
22 year, no instance of noncompliance is determined under
23 subsection (c) (or no determination under subsection (c)
24 is timely made), then, up to 100 percent of the profits

1 attributable to such year (if any) may be used by the Post-
2 al Service for the purposes described in subsection (f).

3 “(e) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
4 year, a timely determination of noncompliance is made
5 under subsection (c)—

6 “(1)(A) the Postal Regulatory Commission may
7 order, based on the nature, circumstances, extent,
8 and seriousness of the noncompliance, that a specific
9 percentage (not to exceed 50 percent) of the profits
10 attributable to such year (if any) be set aside for the
11 purposes described in subsection (g); and

12 “(B) the remainder (or any portion) of those
13 profits may be used by the Postal Service for the
14 purposes described in subsection (f); and

15 “(2) the Commission may, in the case of any
16 violation as to which a remedy could be ordered by
17 the Commission under section 3662(c), order any
18 such remedy under this section.

19 “(f) BONUSES.—

20 “(1) IN GENERAL.—The Postal Service shall es-
21 tablish a program under which cash bonuses may be
22 paid to officers and employees of the Postal Service
23 out of any profits which are available for that pur-
24 pose.

25 “(2) REQUIREMENTS.—Under the program—

1 “(A) bonuses may be paid to officers and
2 employees of the Postal Service under criteria
3 which shall be fair and equitable;

4 “(B) the sole source of funding shall be
5 any profits from any year, subject to the appli-
6 cation of subsection (e)(1) with respect to such
7 year; and

8 “(C) bonuses shall not be precluded (in
9 whole or in part) by the limitation on com-
10 pensation under the last sentence of section
11 1003(a) in a year, if—

12 “(i) total profits attributable to the
13 preceding year, exceed

14 “(ii) the amount equal to 1 percent of
15 total revenues of the Postal Service attrib-
16 utable to such preceding year.

17 “(3) DISCRETIONARY NATURE OF PROGRAM.—
18 Nothing in this section shall be considered to create
19 any entitlement to receive bonuses or to require that
20 any portion of the profits from any year be used for
21 bonuses in excess of whatever amount the Postal
22 Service, in its sole discretion, considers appropriate.

23 “(4) CONSIDERATIONS RELATING TO THE POR-
24 TION OF PROFITS TO BE AVAILABLE FOR BO-
25 NUSES.—In any decision relating to what portion of

1 the available profits from any year shall be made
2 available or used for bonuses under this subsection,
3 there shall be taken into consideration—

4 “(A) the obligation on the part of the
5 Postal Service to provide efficient and economi-
6 cal postal services in accordance with this title;
7 and

8 “(B) the question of what portion of those
9 profits (if any) should be used—

10 “(i) to retire debts or other obliga-
11 tions of the Postal Service;

12 “(ii) to limit future increases in postal
13 rates or fees for products in the non-
14 competitive category of mail; or

15 “(iii) to carry out any other purpose.

16 “(g) DEDICATION OF FUNDS TOWARD REDUCING
17 RATES AND FEES.—

18 “(1) IN GENERAL.—Any amounts ordered to be
19 set aside under subsection (e)(1)(A) may not be
20 used for any purpose other than to defray increases
21 in future rates and fees for products in the non-
22 competitive category of mail or to reduce the rates
23 and fees already in effect for such products.

24 “(2) COMPLIANCE.—Whenever an order under
25 paragraph (1)(A) or (2) of subsection (e) is issued,

1 the Postal Service shall include in its next com-
2 prehensive statement under section 2401(e) (and
3 each subsequent statement thereunder until such
4 order has been fully complied with) a statement as
5 to—

6 “(A) what measures have been or will be
7 implemented in order to comply with the order,
8 including the schedule in accordance with which
9 any amounts set aside pursuant to an order
10 issued under subsection (e)(1)(A) shall be used
11 or made available for the purposes described in
12 paragraph (1); and

13 “(B) if (or to the extent that) an order
14 under subsection (e)(1)(A) is involved—

15 “(i) the amount of savings actually
16 passed on to mailers during the reporting
17 period (whether through reduced rates and
18 fees or otherwise), as compared to the
19 amount of savings scheduled to have been
20 passed on to mailers during such period;
21 and

22 “(ii) to the extent that the amount of
23 savings actually passed on to mailers is
24 less than the amount scheduled to have
25 been passed on to mailers during a report-

1 ing period, what measures (if any) have
2 been or will be implemented to reconcile
3 the difference.

4 “(3) NONREDUNDANT INFORMATION.—Nothing
5 in paragraph (2) shall be considered to require that
6 the same information be reported if included in a
7 previous report under this subsection.

8 “(h) REPORTING REQUIREMENT RELATING TO BO-
9 NUSES.—Included in its comprehensive statement under
10 section 2401(e) for any period shall be—

11 “(1) the name of each person receiving a bonus
12 during such period which would not have been allow-
13 able but for the provisions of subsection (f)(2)(C);

14 “(2) the amount of the bonus; and

15 “(3) the amount by which the limitation re-
16 ferred to in subsection (f)(2)(C) was exceeded as a
17 result of such bonus.

18 **“§ 3774. Other reports**

19 “The Postal Regulatory Commission shall, at least
20 every 6 years, render a report to the President and the
21 Congress concerning—

22 “(1) the operation of the system consisting of
23 chapter 36 and this chapter; and

“(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of that system.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part IV of title 39, United States Code, is amended by adding at the end the following:

“37. New System for Establishing Postal Rates, Classes, and Services 3701”.

7 SEC. 202. AMENDMENTS TO CHAPTER 36.

8 (a) AUTHORITY TO FIX RATES AND CLASSES.—Sec-
9 tion 3621 of title 39, United States Code, is amended—

(1) in the first sentence by striking “this chapter” and inserting “this chapter and chapter 37”;
and

13 (2) by repealing the last 2 sentences.

14 (b) RATES AND FEES.—

(1) IN GENERAL.—The first sentence of section 3622(a) of title 39, United States Code, is amended to read as follows: “Whenever necessary in order to provide for the establishment of any baseline rate needed for purposes of section 3762(a) (relating to certain new noncompetitive products), the Postal Service shall request the Postal Regulatory Commission to submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for

1 postal services in accordance with the policies of this
2 title and applicable provisions of chapter 37.”.

3 (2) CONFORMING AMENDMENTS.—Such section
4 3622(a) is further amended—

5 (A) by striking “(a)” and inserting
6 “(a)(1)”; and

7 (B) by adding at the end the following:

8 “(2) A request under this subsection may not be sub-
9 mitted except in the circumstance described in paragraph
10 (1).”.

11 (c) MAIL CLASSIFICATION.—

12 (1) REPEAL.—Section 3623 of title 39, United
13 States Code, is amended by striking subsection (a)
14 and by redesignating subsections (b) through (d) as
15 subsections (a) through (c), respectively.

16 (2) MODIFIED AUTHORITY.—Subsection (a) of
17 section 3623 of title 39, United States Code, as so
18 redesignated by paragraph (1), is amended to read
19 as follows:

20 “(a) The Postal Service may from time to time re-
21 quest that the Postal Regulatory Commission submit, or
22 the Commission may submit to the Directors on its own
23 initiative, a recommended decision on changes in the mail
24 classification schedule for noncompetitive products (within
25 the meaning of subchapter III of chapter 37).”.

1 (d) RECOMMENDED DECISIONS OF COMMISSION.—

2 Subsection (c) of section 3624 of title 39, United States

3 Code, is amended—

4 (1) in paragraph (1) by striking “a request

5 under section 3622 of this title for a recommended

6 decision by the Commission on changes in a rate or

7 rates of postage or in a fee or fees for postal serv-

8 ices” and inserting “a request under section 3623

9 for a recommended decision by the Commission on

10 changes in the mail classification schedule or a re-

11 quest under section 3762 for a recommended deci-

12 sion by the Commission on the baseline rate and

13 classification for a new noncompetitive product,”;

14 and

15 (2) in paragraph (2) by striking “3622” and in-

16 serting “3623 or 3762 (as applicable)”.

17 (e) APPELLATE REVIEW.—

18 (1) APPEALABILITY OF ADJUSTMENT FACTOR

19 AND PRODUCT TRANSFER DECISIONS.—The first

20 sentence of section 3628 of title 39, United States

21 Code, is amended—

22 (A) by striking “A decision” and inserting

23 “(a) A decision”;

24 (B) by inserting before “may be appealed”

25 the following: “on a request made under section

1 3623 or 3762, and any final decision by the
2 Commission under section 3733 or 3764,”; and
3 (C) by striking “3624(a) of this title” and
4 inserting “3624(a), 3733(b), 3762(b), or
5 3764(d) (as the case may be)”.

6 (2) APPEALS FROM ALL OTHER FINAL ORDERS
7 OF THE COMMISSION.—

8 (A) TITLE 39 AMENDMENT.—Section 3628
9 of title 39, United States Code, is amended by
10 adding at the end the following:

11 “(b) Any proceeding to enjoin, set aside, annul, or
12 suspend any order of the Postal Regulatory Commission
13 (except any order appealable under subsection (a)) shall
14 be brought as provided by and in the manner prescribed
15 in chapter 158 of title 28.”.

16 (B) TITLE 28 AMENDMENTS.—

17 (i) DEFINITIONS.—Subparagraph (A)
18 of section 2341(3) of title 28, United
19 States Code, is amended by inserting “the
20 Postal Regulatory Commission,” after “the
21 Federal Maritime Commission,”.

22 (ii) ORDERS APPEALABLE.—Section
23 2342 of title 28, United States Code, is
24 amended by striking “and” at the end of
25 paragraph (6), by striking the period at

1 the end of paragraph (7) and inserting “;
2 and”, and by adding at the end the follow-
3 ing:

4 “(8) all final orders of the Postal Regulatory
5 Commission made reviewable by section 3628(b) of
6 title 39.”.

7 (3) CONFORMING AMENDMENTS.—Sections
8 3625 and 3681 of title 39, United States Code, are
9 amended by striking “3628” each place it appears
10 and inserting “3628(a)”.

11 (f) TEMPORARY RATES AND CLASSES.—

12 (1) NEGOTIATED SERVICE AGREEMENTS.—Sec-
13 tion 3641 of title 39, United States Code, is amend-
14 ed to read as follows:

15 **“§ 3641. Negotiated service agreements**

16 “(a) The Postal Service may enter into negotiated
17 service agreements with users of postal services in accord-
18 ance with this section. A negotiated service agreement
19 under this section shall—

20 “(1) pertain exclusively to products in the non-
21 competitive category of mail (within the meaning of
22 subchapter III of chapter 37);

23 “(2) require that the contracting mail user per-
24 form mail preparation, processing, transportation,
25 administration, or other functions that are in addi-

1 tion to or greater than those required of mailers
2 under provisions of the mail classification schedule
3 established pursuant to section 3623(b);

4 “(3) provide for the payment by the contracting
5 mail user of liquidated damages to the Postal Serv-
6 ice for nonperformance or breach of any of the ma-
7 terial terms of the agreement, including any mini-
8 mum volume commitments; the amount of such liq-
9 uidated damages shall not be less than the difference
10 between postage and fees paid by such mail user
11 pursuant to the agreement and the amounts such
12 user would have paid under the otherwise applicable
13 schedule of rates and fees;

14 “(4) be for a term of not to exceed 3 years; and

15 “(5) provide that such agreement, and any
16 amendment or renewal thereof, shall not become ef-
17 fective until approved by the Postal Regulatory
18 Commission, and is subject to the cancellation au-
19 thority of the Commission under section 3662(c).

20 “(b) Within 1 year after this subsection takes effect,
21 the Postal Regulatory Commission shall adopt rules for
22 the consideration of negotiated service agreements be-
23 tween the Postal Service and users of postal services,
24 which meet the requirements of subsections (c) and (d).

1 “(c) Upon receipt of a proposed negotiated service
2 agreement entered into by the Postal Service under sub-
3 section (a), or any amendment or renewal thereof, the
4 Postal Regulatory Commission shall render a decision
5 upon review of the agreement, after notice and oppor-
6 tunity for comment by interested parties in accordance
7 with section 553 of title 5, pursuant to the regulations
8 adopted by the Commission under subsection (b). The
9 Commission shall approve and recommend implementation
10 of a proposed negotiated service agreement (or any
11 amendment or renewal thereof) if, on the basis of the writ-
12 ten data, views, and arguments received, it finds that—

13 “(1) the proposed agreement (or amendment or
14 renewal, as applicable)—

15 “(A) satisfies the conditions and require-
16 ments of subsection (a); and

17 “(B) does not preclude or materially
18 hinder similarly situated mail users from enter-
19 ing into agreements with the Postal Service on
20 the same, or substantially the same, terms and
21 conditions;

22 “(2) the Postal Service is willing and able to
23 enter into such negotiated service agreements with
24 other similarly situated mail users; and

1 “(3) rates and fees payable during the term of
2 the proposed negotiated service agreement are rea-
3 sonably calculated to yield to the Postal Service total
4 revenues that equal or exceed the sum of—

5 “(A) the direct and indirect postal costs
6 attributable to services performed by the Postal
7 Service under the agreement; and

8 “(B) a portion of all other costs of the
9 Postal Service that are equal, on an average
10 unit basis, to the portion of such costs reason-
11 ably assignable to the classification or classi-
12 fications of mail service most similar to the
13 services performed under the agreement.

14 A negotiated service agreement may be approved by the
15 Commission only if such agreement can reasonably be ex-
16 pected to result in net benefits to the operation of a na-
17 tionwide postal system.

18 “(d) Whenever it disapproves a proposed negotiated
19 service agreement, the Postal Regulatory Commission
20 shall provide written notice to that effect, together with
21 the reasons therefor.

22 “(e) Any decision to approve or disapprove a pro-
23 posed negotiated service agreement (or amendment or re-
24 newal, as applicable) shall be subject to judicial review in
25 accordance with section 3628(b).

1 “(f) Nothing in subsections (a) through (e) shall be
2 considered to limit or otherwise affect any authority avail-
3 able to the Postal Service under section 3763.”.

4 (2) CONFORMING AMENDMENT.—The table of
5 sections at the beginning of chapter 36 of title 39,
6 United States Code, is amended by striking the item
7 relating to section 3641 and inserting the following:
“3641. Negotiated service agreements.”.

8 (g) RATE AND SERVICE COMPLAINTS.—Section 3662
9 of title 39, United States Code, is amended to read as
10 follows:

11 **“§ 3662. Rate and service complaints**

12 “(a) Interested parties (including an officer of the
13 Postal Regulatory Commission representing the interests
14 of the general public) who believe the Postal Service is
15 charging rates which do not conform to the policies set
16 out in this title, who believe that the Postal Service is not
17 providing postal service in accordance with the policies of
18 this title, or who believe that the Postal Service is other-
19 wise not acting in conformance with the policies of this
20 title, may lodge a complaint with the Postal Regulatory
21 Commission in such form and in such manner as it may
22 prescribe.

23 “(b)(1) The Postal Regulatory Commission shall,
24 within 90 days after receiving a complaint under sub-
25 section (a), either—

1 “(A) begin proceedings on such complaint in
2 conformity with section 3764(d)(1); or

3 “(B) issue an order dismissing the complaint
4 (together with a statement of the reasons therefor).

5 “(2) For purposes of section 3628(b), any complaint
6 under subsection (a) on which the Commission fails to act
7 in the time and manner required by paragraph (1) shall
8 be treated in the same way as if it had been dismissed
9 pursuant to an order issued by the Commission on the
10 last day allowable for the issuance of such order under
11 paragraph (1).

12 “(c) If the Postal Regulatory Commission finds the
13 complaint to be justified, it shall—

14 “(1) in a classification matter covered by sec-
15 tion 3623 or 3762, after proceedings in conformity
16 with section 3624, issue a recommended decision
17 which shall be acted upon in accordance with the
18 provisions of section 3625;

19 “(2) in a matter involving a violation of any
20 limitation under section 3732 (relating to limitations
21 on rates for noncompetitive products), order the un-
22 lawful rates to be adjusted to lawful levels and the
23 taking of such other action as it deems appropriate;

24 “(3) in a matter involving a violation of section
25 3743(a) (relating to costs-attributable requirement

1 for competitive products) or section 3763(b) (relat-
2 ing to conditions to be met by new competitive prod-
3 ucts), order the unlawful rates to be adjusted to law-
4 ful levels and the taking of such other action as it
5 deems appropriate;

6 “(4) in a matter involving a violation of section
7 3641, order the payment of liquidated damages in
8 accordance with the provisions included in the agree-
9 ment involved pursuant to the requirements of sec-
10 tion 3641(a)(3) or the cancellation of such agree-
11 ment;

12 “(5) in a matter involving a violation of section
13 403(c), order the taking of such action as it deems
14 appropriate;

15 “(6) in a matter involving a violation of any
16 provision of subchapter V of chapter 37 (relating to
17 market tests of experimental products), order the
18 cancellation of the testing involved or the taking of
19 such other action as it deems appropriate;

20 “(7) in a matter involving a violation of section
21 404a, order the rescission of any regulation involved
22 or the taking of such action as it deems appropriate;

23 “(8) in a matter involving a violation of section
24 2012(f) (relating to the minimum amount to be
25 charged by the Postal Service for goods or services

1 provided to any corporation established under sec-
2 tion 2012), order that the Postal Service increase its
3 prices to at least the minimum levels required;

4 “(9) in a matter involving the Postal Service’s
5 providing a nonpostal product that is not permitted
6 under paragraph (6) of section 404(a), order that
7 the Postal Service cease providing such product; and

8 “(10) in a matter not otherwise covered by any
9 of the preceding provisions of this subsection, render
10 a public report thereon.

11 “(d) In addition, in cases of deliberate noncompliance
12 with the requirements of this title, the Postal Regulatory
13 Commission may order, based on the nature, cir-
14 cumstances, extent, and seriousness of the noncompliance,
15 a fine (in the amount specified by the Commission in its
16 order) for each incidence of noncompliance. Fines result-
17 ing from the provision of competitive products (within the
18 meaning of subchapter IV of chapter 37) shall be paid
19 out of the Competitive Products Fund established in sec-
20 tion 2011. All receipts from fines imposed under this sub-
21 section shall be deposited in the general fund of the Treas-
22 ury of the United States.”.

23 (h) LIMITATIONS.—Section 3684 of title 39, United
24 States Code, is amended—

1 (1) by inserting “and no provision of chapter
2 37” after “no provision of this chapter”; and

3 (2) by striking “any provision of section 3682
4 or 3683 or chapter 30, 32, or 34 of this title.” and
5 inserting “any provision of this title.”.

6 (i) REDUCED RATES.—Effective as of the date of en-
7 actment of this Act, subclause (VI) of section
8 3626(a)(3)(B)(ii) of title 39, United States Code, is
9 amended to read as follows:

10 “(VI) one-half (or less, as the Postal Service
11 may prescribe), for any fiscal year after fiscal year
12 1998.”.

13 (j) REGULATIONS OF THE COMMISSION.—Effective
14 as of the date of enactment of this Act, section 3603 of
15 title 39, United States Code, is amended by striking “this
16 chapter.” and inserting “this title.”.

17 (k) EFFECTIVE DATE.—Except as provided in sub-
18 section (i) or (j), this section and the amendments made
19 by this section shall become effective on the date as of
20 which the baseline rates are determined under section
21 3721(e)(2) of title 39, United States Code (as amended
22 by section 201).

23 **SEC. 203. POSTAL SERVICE COMPETITIVE PRODUCTS**
24 **FUND.**

25 (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Chapter 20 of title 39,
2 United States Code, is amended by adding at the
3 end the following:

4 **“§ 2011. Postal Service Competitive Products Fund**

5 “(a) There is established in the Treasury of the
6 United States a revolving fund to be called the Postal
7 Service Competitive Products Fund which shall be avail-
8 able to the Postal Service without fiscal-year limitation for
9 the payment of all attributable costs, institutional costs,
10 and other expenses incurred by the Postal Service in pro-
11 viding competitive products.

12 “(b) There shall be deposited in the Postal Service
13 Competitive Products Fund, subject to withdrawal by the
14 Postal Service—

15 “(1) revenues from competitive products;

16 “(2) amounts received from obligations issued
17 by the Postal Service under this section;

18 “(3) interest which may be earned on invest-
19 ments of the Postal Service Competitive Products
20 Fund; and

21 “(4) any amounts transferred from the Postal
22 Service Fund under subsection (j).

23 “(c) The receipts and disbursements of the Postal
24 Service Competitive Products Fund shall be accorded the
25 same budgetary treatment as is accorded to receipts and

1 disbursements of the Postal Service Fund under section
2 2009a.

3 “(d)(1) If the Postal Service determines that the
4 moneys of the Postal Service Competitive Products Fund
5 are in excess of current needs, it may invest such amounts
6 as it deems advisable in any of the following:

7 “(A) A corporation established under section
8 2012.

9 “(B) Such other investments as it considers ap-
10 propriate.

11 “(2)(A) Nothing in paragraph (1)(B) shall be consid-
12 ered to constitute authority for the Postal Service to invest
13 in the obligations or securities of, or to make any other
14 investment with respect to, a commercial entity.

15 “(B) For purposes of this paragraph, the term ‘com-
16 mercial entity’ means any corporation, company, associa-
17 tion, partnership, joint stock company, firm, society, or
18 other similar entity, as further defined under regulations
19 prescribed by the Postal Regulatory Commission.

20 “(e) The Postal Service, in its sole discretion, may
21 provide that amounts which would otherwise be deposited
22 in the Postal Service Competitive Products Fund shall in-
23 stead be directly deposited in a Federal Reserve bank or
24 a depository for public funds selected by the Postal Serv-
25 ice, and may provide for transfers of amounts under this

1 subsection between or among such accounts and the Post-
2 al Service Competitive Products Fund.

3 “(f) A judgment against the Postal Service or the
4 Government of the United States arising out of activities
5 of the Postal Service in the provision of competitive prod-
6 ucts (as determined under regulations which the Postal
7 Regulatory Commission shall prescribe, in consultation
8 with the Postal Service) shall be paid out of the Postal
9 Service Competitive Products Fund.

10 “(g)(1) Subject to the limitations specified in section
11 2005(a) (applied in accordance with paragraph (2)), the
12 Postal Service is authorized to borrow money and to issue
13 and sell such obligations as it determines necessary to pro-
14 vide for competitive products and deposit such amounts
15 in the Postal Service Competitive Products Fund, except
16 that the Postal Service may pledge only the assets of the
17 Postal Service Competitive Products Fund and pledge and
18 use its revenues and receipts for the payment of the prin-
19 cipal of or interest on such obligations, for the purchase
20 or redemption thereof, and for other purposes incidental
21 thereto, including creation of reserve, sinking, and other
22 funds which may be similarly pledged and used, to such
23 extent and in such manner as it deems necessary or desir-
24 able.

1 “(2) For purposes of applying any limitation under
2 section 2005(a), the aggregate amount of obligations
3 issued by the Postal Service which are outstanding at any
4 given time, and the net increase in the amount of obliga-
5 tions outstanding issued by the Postal Service for the pur-
6 pose of capital improvements or for the purpose of defray-
7 ing operating expenses of the Postal Service in any fiscal
8 year, shall be determined by aggregating all outstanding
9 obligations so issued by the Postal Service under section
10 2005 with all outstanding obligations so issued by the
11 Postal Service under this section.

12 “(h) The Postal Service may enter into binding cov-
13 enants with the holders of such obligations, and with the
14 trustee, if any, under any agreement entered into in con-
15 nection with the issuance thereof with respect to the estab-
16 lishment of reserve, sinking, and other funds, application
17 and use of revenues and receipts of the Postal Service
18 Competitive Products Fund, stipulations concerning the
19 subsequent issuance of obligations or the execution of
20 leases or lease purchases relating to properties of the Post-
21 al Service and such other matters as the Postal Service
22 deems necessary or desirable to enhance the marketability
23 of such obligations.

24 “(i) Obligations issued by the Postal Service under
25 this section shall—

1 “(1) not be purchased by the Secretary of the
2 Treasury;

3 “(2) not be exempt either as to principal or in-
4 terest from any taxation now or hereafter imposed
5 by any State or local taxing authority;

6 “(3) not be obligations of, nor shall payment of
7 the principal thereof or interest thereon be guaran-
8 teed by, the Government of the United States, and
9 the obligations shall so plainly state; and

10 “(4) notwithstanding the provisions of the Fed-
11 eral Financing Bank Act of 1973 or any other provi-
12 sion of law (except as may be specifically provided
13 by reference to this paragraph in any Act enacted
14 after this paragraph takes effect), not be eligible for
15 purchase by, or commitment to purchase by, or sale
16 or issuance to, the Federal Financing Bank.

17 “(j) The Postal Service shall, on the first day of the
18 first year beginning on or after the date as of which the
19 baseline rates are determined under section 3721(e)(2),
20 transfer from the Postal Service Fund to the Postal Serv-
21 ice Competitive Products Fund an amount that, as deter-
22 mined by the Postal Regulatory Commission (after notice
23 and opportunity for comment by interested parties in ac-
24 cordance with section 553 of title 5), fairly reflects the

1 net value of assets and liabilities which may be attributed
2 wholly or primarily to competitive products.

3 “(k) The Postal Service shall render an annual report
4 to the Secretary of the Treasury concerning the operation
5 of the Postal Service Competitive Products Fund, in which
6 it shall address such matters as risk limitations, reserve
7 balances, allocation or distribution of moneys, liquidity re-
8 quirements, and measures to safeguard against losses. A
9 copy of its then most recent report under this subsection
10 shall be included together with any other submission that
11 it is required to make to the Postal Regulatory Commis-
12 sion under section 3772(g).

13 “(l) For purposes of this section, the term ‘competi-
14 tive product’ has the meaning given such term by section
15 3701.”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tions at the beginning of chapter 20 of title 39,
18 United States Code, is amended by adding after the
19 item relating to section 2010 the following:

“2011. Postal Service Competitive Products Fund.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) CAPITAL OF THE POSTAL SERVICE.—Sec-
22 tion 2002(b) of title 39, United States Code, is
23 amended by striking “Fund,” and inserting “Fund
24 and the balance in the Postal Service Competitive
25 Products Fund,”.

1 (2) POSTAL SERVICE FUND.—

2 (A) PURPOSES FOR WHICH AVAILABLE.—

3 (i) IN GENERAL.—Section 2003(a) of
4 title 39, United States Code, is amended
5 by striking “title.” and inserting “title
6 (other than any of the purposes, functions,
7 or powers for which the Postal Service
8 Competitive Products Fund is available).”.

9 (ii) CONFORMING AMENDMENT.—Sec-
10 tion 2003(e)(1) of title 39, United States
11 Code, is amended by inserting after “as
12 provided by law” the following: “(subject
13 to the same limitation as set forth in the
14 parenthetical matter under subsection
15 (a))”.

16 (B) DEPOSITS.—Section 2003(b) of title
17 39, United States Code, is amended by striking
18 “There” and inserting “Except as otherwise
19 provided in section 2011, there”.

20 (3) INVESTMENTS.—Subsection (c) of section
21 2003 of title 39, United States Code, is amended—

22 (A) by striking “(c) If” and inserting
23 “(c)(1) Except as provided in paragraph (2),
24 if”; and

25 (B) by adding at the end the following:

1 “(2) Nothing in this subsection shall be considered
2 to authorize any investment in any obligations or securi-
3 ties of a commercial entity (as defined by section
4 2011(d)(2)(B)), including any corporation established
5 under section 2012.”.

6 (4) OBLIGATIONS.—

7 (A) PURPOSES FOR WHICH ISSUANCE IS
8 ALLOWED.—The first sentence of section
9 2005(a)(1) of title 39, United States Code, is
10 amended by striking “title.” and inserting “title
11 (other than any of the purposes for which the
12 corresponding authority is available to the Post-
13 al Service under section 2011).”.

14 (B) SPECIAL RULE FOR APPLYING LIMITA-
15 TIONS.—Paragraph (1) of section 2005(a) of
16 title 39, United States Code, is amended by
17 adding at the end the following: “The limita-
18 tions under the second and third sentences of
19 this subsection shall be applied in accordance
20 with section 2011(g)(2).”.

21 (5) RELATIONSHIP BETWEEN THE TREASURY
22 AND THE POSTAL SERVICE.—Section 2006(c) of title
23 39, United States Code, is amended by inserting
24 “under section 2005” before “shall be obligations”.

1 **SEC. 204. USPS CORPORATION.**

2 (a) ESTABLISHMENT.—Chapter 20 of title 39,
3 United States Code, is amended by adding after section
4 2011 (as added by section 203) the following:

5 **“§ 2012. USPS Corporation**

6 “(a) The Board of Directors may establish a private
7 for-profit corporation under the laws of a State to be
8 known as the USPS Corporation or such other corporate
9 name as may be duly adopted by the Corporation. The
10 Board of Directors may serve as incorporators of the Cor-
11 poration and take all steps necessary to establish the Cor-
12 poration, including the filing of articles of incorporation
13 consistent with the provisions of this section.

14 “(b)(1) The Corporation shall not be an agency, in-
15 strumentality, or establishment of the United States, a
16 Government corporation, or a Government-controlled cor-
17 poration. Except as provided in this section, the Corpora-
18 tion shall not be considered part of the Postal Service. Fi-
19 nancial obligations of the Corporation shall not be obliga-
20 tions of, or guaranteed as to principal or interest by, the
21 Postal Service or the United States, and the obligations
22 shall so plainly state. No action shall be allowable against
23 the United States based on actions of the Corporation.

24 “(2) The receipts and disbursements of the Corpora-
25 tion shall be accorded the same budgetary treatment as

1 is accorded to receipts and disbursements of the Postal
2 Service Fund under section 2009a.

3 “(c) The Corporation is authorized to issue and have
4 outstanding, in such amounts as it shall determine, shares
5 of capital stock, without par value, which shall carry vot-
6 ing rights and be eligible for dividends. Such shares may
7 be purchased only by the Postal Service Competitive Prod-
8 ucts Fund, in such amounts as the Board of Directors
9 of the Postal Service may deem appropriate.

10 “(d) Notwithstanding any provision of State law, the
11 articles of incorporation and bylaws of the Corporation
12 shall provide that its board of directors shall be named
13 by the Board of Directors of the Postal Service. The re-
14 strictions on postgovernment employment set out in sec-
15 tion 207 of title 18 shall not apply to the acts of an indi-
16 vidual taken in carrying out official duties as a director,
17 officer, or employee of the Corporation if the individual
18 was an officer or employee of the Postal Service (including
19 a Director) continuously for a period of 12 months or
20 longer during the 24 months prior to employment with
21 the Corporation.

22 “(e) The Corporation shall have all of the powers con-
23 ferred upon it under the laws of the State or States in
24 which it is incorporated. The Corporation is specifically
25 authorized—

1 “(1) to offer any postal or nonpostal product
2 (other than a product covered by the postal monop-
3 oly, as defined in section 3764(b)(2));

4 “(2) acquire shares of individual private compa-
5 nies; and

6 “(3) participate in joint ventures with individ-
7 ual private companies.

8 “(f) The Corporation may purchase goods and serv-
9 ices from the Postal Service, except that the Corporation
10 must pay the Postal Service the same amount for such
11 goods or services as would be paid by similarly situated
12 mailers or, if the goods or services are not offered to the
13 public by the Postal Service, amounts which represent fair
14 market value.

15 “(g)(1) Insofar as the Corporation offers postal prod-
16 ucts which depend in substantial part on the services of
17 the Postal Service, the Postal Service shall, to the extent
18 deemed appropriate by the Postal Regulatory Commission
19 (and subject to such requirements as the Commission may
20 specify as to form and content), include details of the ac-
21 tivities of the Corporation (including sufficient informa-
22 tion to demonstrate that the requirements of subsection
23 (f) are being complied with) in the annual reports to the
24 Commission required by section 3772.

1 “(2) In the event that, based on its review of the in-
2 formation submitted to it by the Postal Service under
3 paragraph (1), the Commission determines that the re-
4 quirements of subsection (f) are not being complied with,
5 the Commission may issue any order allowable under sub-
6 section (c)(8) or (d) of section 3662.

7 “(h) As used in this section, the term ‘State’ includes
8 the District of Columbia.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 20 of title 39, United States
11 Code, is amended by adding after the item relating to sec-
12 tion 2011 (as added by section 203) the following:

“2012. USPS Corporation.”.

13 (c) EFFECTIVE DATE.—No authority under section
14 2012 of title 39, United States Code (as amended by this
15 section) shall be available until the first day of the first
16 year beginning on or after the date as of which the base-
17 line rates are determined under section 3721(e)(2).

18 **SEC. 205. POSTAL AND NONPOSTAL PRODUCTS.**

19 (a) IN GENERAL.—Section 102 of title 39, United
20 States Code, as amended by section 102(a) of this Act,
21 is amended by striking “and” at the end of paragraph (4),
22 by striking the period at the end of paragraph (5) and
23 inserting a semicolon, and by adding at the end the follow-
24 ing:

1 “(6) ‘postal product’ refers to any letter, print-
2 ed matter, and package weighing up to 70 pounds,
3 including incidental services ancillary to the accept-
4 ing, handling, and delivery thereof; and

5 “(7) ‘nonpostal product’ means any product of-
6 fered by the Postal Service (or that could have been
7 offered by the Postal Service under section
8 404(a)(6), as last in effect before the date of enact-
9 ment of the Postal Modernization Act of 1998) that
10 is not a postal product.”.

11 (b) SPECIFIC POWERS.—

12 (1) IN GENERAL.—Paragraph (6) of section
13 404(a) of title 39, United States Code, is amended
14 to read as follows:

15 “(6)(A) to continue providing or to abolish any
16 nonpostal service first offered by the Postal Service
17 to the general public before January 1, 1994 (with
18 any nonpostal services not offered by the Postal
19 Service to the general public before January 1,
20 1994, to be provided by means of a private corpora-
21 tion organized under section 2012, if at all, instead
22 of the Postal Service); and

23 “(B) with respect to any nonpostal services first
24 offered by the Postal Service to the general public
25 during the period beginning on January 1, 1994,

1 and ending on the date of enactment of the Postal
2 Modernization Act of 1998, to continue to offer such
3 services, but only—

4 “(i) subject to clause (ii), until such serv-
5 ices are transferred to the private postal cor-
6 poration (referred to in subparagraph (A)) in
7 accordance with such schedule and procedures
8 as the Postal Regulatory Commission shall by
9 regulation prescribe; or

10 “(ii) until the first day of the first year of
11 the first ratemaking cycle (within the meaning
12 of section 3733(a)), if the transfer described in
13 clause (i) has not been completed by such
14 date.”.

15 (2) DEADLINE.—The regulations required
16 under section 404(a)(6)(B) of title 39, United States
17 Code, as amended by this subsection, shall be pre-
18 scribed in time to become effective by the commence-
19 ment of the first proceedings under section 3733 of
20 title 39, United States Code (relating to adjustment
21 factors), as added by section 201.

1 **Subtitle B—Related Provisions**

2 **SEC. 211. AUTHORITY FOR POSTAL REGULATORY COMMIS-**
3 **SION TO ISSUE SUBPOENAS.**

4 Section 3604 of title 39, United States Code, is
5 amended by adding at the end the following:

6 “(f)(1) Any Commissioner of the Postal Regulatory
7 Commission, any administrative law judge appointed by
8 the Commission under section 3105 of title 5, and any
9 employee of the Commission designated by the Commis-
10 sion may administer oaths, examine witnesses, take depo-
11 sitions, and receive evidence.

12 “(2) The Chairman of the Commission, any Commis-
13 sioner designated by the Chairman, and any administra-
14 tive law judge appointed by the Commission under section
15 3105 of title 5 may, with respect to any proceeding con-
16 ducted by the Commission under this title—

17 “(A) issue subpoenas requiring the attendance
18 and presentation of testimony of any individual, and
19 the production of documentary or other evidence,
20 from any place in the United States, any territory
21 or possession of the United States, the Common-
22 wealth of Puerto Rico, or the District of Columbia;
23 and

24 “(B) order the taking of depositions and re-
25 sponses to written interrogatories.

1 The written concurrence of a majority of the Commis-
2 sioners then holding office shall, with respect to each sub-
3 poena under subparagraph (A), be required in advance of
4 its issuance.

5 “(3) In the case of contumacy or failure to obey a
6 subpoena issued under this subsection, upon application
7 by the Commission, the district court of the United States
8 for the district in which the person to whom the subpoena
9 is addressed resides or is served may issue an order requir-
10 ing such person to appear at any designated place to tes-
11 tify or produce documentary or other evidence. Any failure
12 to obey the order of the court may be punished by the
13 court as a contempt thereof.

14 “(g)(1) If the Postal Service determines that any doc-
15 ument or other matter it provides to the Postal Regulatory
16 Commission pursuant to a subpoena issued under sub-
17 section (f), or otherwise at the request of the Commission
18 in connection with any proceeding or other purpose under
19 this chapter or chapter 37, contains information which is
20 described in section 410(c) of this title, or exempt from
21 public disclosure under section 552(b) of title 5, the Postal
22 Service shall, at the time of providing such matter to the
23 Commission, notify the Commission, in writing, of its de-
24 termination (and the reasons therefor).

1 “(2) No officer or employee of the Commission may,
2 with respect to any information as to which the Commis-
3 sion has been notified under paragraph (1)—

4 “(A) use such information for purposes other
5 than the purposes for which it is supplied; or

6 “(B) permit anyone who is not an officer or
7 employee of the Commission to have access to any
8 such information.

9 “(3) Paragraph (2) shall not prevent information
10 from being furnished under any process of discovery estab-
11 lished under this title in connection with a proceeding
12 under this chapter or chapter 37 which is conducted in
13 accordance with sections 556 and 557 of title 5. The Com-
14 mission shall, by regulations based on rule 26(c) of the
15 Federal Rules of Civil Procedure, establish procedures for
16 ensuring appropriate confidentiality for any information
17 furnished under the preceding sentence.”.

18 **SEC. 212. QUALIFICATION REQUIREMENTS FOR COMMIS-**
19 **SIONERS AND DIRECTORS.**

20 (a) COMMISSIONERS.—Section 3601(a) of title 39,
21 United States Code, is amended by striking the third sen-
22 tence and inserting the following: “The Commissioners
23 shall be chosen solely on the basis of their technical quali-
24 fications, professional standing, and demonstrated exper-
25 tise in economics, accounting, law, or public administra-

1 tion, and may be removed by the President only for
2 cause.”.

3 (b) DIRECTORS.—

4 (1) IN GENERAL.—Section 202(a) of title 39,
5 United States Code, is amended by striking “(a)”
6 and inserting “(a)(1)” and by striking the fourth
7 sentence and inserting the following: “The Directors
8 shall represent the public interest generally, and
9 shall be chosen solely on the basis of their dem-
10 onstrated ability in managing organizations or cor-
11 porations, in either the public or the private sector,
12 similar in size or scope to the Postal Service. The
13 Directors shall not be representatives of specific in-
14 terests using the Postal Service, and may be re-
15 moved only for cause.”.

16 (2) CONSULTATION REQUIREMENT.—Sub-
17 section (a) of section 202 of title 39, United States
18 Code, is amended by adding at the end the follow-
19 ing:

20 “(2) In selecting the individuals described in para-
21 graph (1) for nomination for appointment to the position
22 of Director, the President should consult with the Speaker
23 of the House of Representatives, the minority leader of
24 the House of Representatives, the majority leader of the
25 Senate, and the minority leader of the Senate.”.

1 (c) APPLICABILITY.—Nothing in this section shall af-
2 fect the tenure of any individual serving as a Commis-
3 sioner on the Postal Regulatory Commission or a Director
4 of the Board of Directors of the United States Postal
5 Service pursuant to an appointment made before the date
6 of enactment of this Act, or any nomination made before
7 such date of enactment.

8 **SEC. 213. APPROPRIATIONS FOR THE COMMISSION.**

9 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
10 section (d) of section 3604 of title 39, United States Code,
11 is amended to read as follows:

12 “(d) There are authorized to be appropriated, out of
13 the Postal Service Fund, such sums as may be necessary
14 for the Postal Regulatory Commission. In requesting an
15 appropriation under this subsection for a fiscal year, the
16 Commission shall prepare and submit to the Congress
17 under section 2009 a budget of the Commission’s ex-
18 penses, including expenses for facilities, supplies, com-
19 pensation, and employee benefits.”.

20 (b) BUDGET PROGRAM.—

21 (1) IN GENERAL.—The next to last sentence of
22 section 2009 of title 39, United States Code, is
23 amended to read as follows: “The budget program
24 shall also include separate statements of the
25 amounts which (1) the Postal Service requests to be

1 appropriated under subsections (b) and (c) of section
2 2401, (2) the Office of Inspector General of the
3 United States Postal Service requests to be appro-
4 priated, out of the Postal Service Fund, under sec-
5 tion 8G(f) of the Inspector General Act of 1978, and
6 (3) the Postal Regulatory Commission requests to be
7 appropriated, out of the Postal Service Fund, under
8 section 3604(d) of this title.”.

9 (2) CONFORMING AMENDMENT.—Section
10 2003(e)(1) of title 39, United States Code, is
11 amended by striking the matter before the second
12 sentence and inserting the following:

13 “(e)(1) The Fund shall be available for the payment
14 of all expenses incurred by the Postal Service in carrying
15 out its functions as provided by law and—

16 “(A) subject to the availability of amounts ap-
17 propriated pursuant to section 3604(d), all of the
18 expenses of the Postal Regulatory Commission; and

19 “(B) subject to the availability of amounts ap-
20 propriated pursuant to section 8G(f) of the Inspec-
21 tor General Act of 1978, all of the expenses of the
22 Office of Inspector General.”.

23 (c) EFFECTIVE DATE.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall apply with respect to fiscal years
3 beginning on or after October 1, 1999.

4 (2) SAVINGS PROVISION.—The provisions of
5 title 39, United States Code, that are amended by
6 this section shall, for purposes of any fiscal year be-
7 fore the first fiscal year to which the amendments
8 made by this section apply, continue to apply in the
9 same way as if this section had never been enacted.

10 **SEC. 214. CHANGE-OF-ADDRESS ORDER INVOLVING A COM-**
11 **MERCIAL MAIL RECEIVING AGENCY.**

12 (a) IN GENERAL.—Subchapter V of chapter 36 of
13 title 39, United States Code, is amended by adding at the
14 end the following:

15 **“§ 3686. Change-of-address order involving a commer-**
16 **cial mail receiving agency**

17 “(a) For the purpose of this section, the term ‘com-
18 mercial mail receiving agency’ or ‘CMRA’ means a private
19 business that acts as the mail receiving agent for specific
20 clients.

21 “(b) Upon termination of an agency relationship be-
22 tween an addressee and a commercial mail receiving agen-
23 cy—

1 “(1) the addressee or, if authorized to do so,
2 the CMRA may file a change-of-address order with
3 the Postal Service with respect to such addressee;

4 “(2) a change-of-address order so filed shall, to
5 the extent practicable, be given full force and effect;
6 and

7 “(3) any mail for the addressee that is delivered
8 to the CMRA after the filing of an appropriate order
9 under this subsection shall be subject to subsection
10 (c).

11 “(c) Mail described in subsection (b)(3) shall, if
12 marked for forwarding and remailed by the CMRA, be for-
13 warded by the Postal Service in the same manner as, and
14 subject to the same terms and conditions (including limita-
15 tions on the period of time for which a change-of-address
16 order shall be given effect) as apply to, mail forwarded
17 directly by the Postal Service to the addressee.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 36 of title 39, United States
20 Code, is amended by adding after the item relating to sec-
21 tion 3685 the following:

 “3686. Change-of-address order involving a commercial mail receiving agency.”.

22 **SEC. 215. RATES FOR MAIL UNDER FORMER SECTION 4358.**

23 Section 3626 of title 39, United States Code, is
24 amended by adding at the end the following:

1 “(n) In the administration of this section, matter that
2 satisfies the circulation standards for requester publica-
3 tions shall not be excluded from being mailed at the rates
4 for mail under former section 4358 solely because such
5 matter is designed primarily for free circulation or for cir-
6 culation at nominal rates, or fails to meet the require-
7 ments of former section 4354(a)(5).”.

8 **TITLE III—GENERAL AUTHORITY**

9 **SEC. 301. RULEMAKING AUTHORITY.**

10 Paragraph (2) of section 401 of title 39, United
11 States Code, is amended to read as follows:

12 “(2) to adopt, amend, and repeal such rules
13 and regulations, not inconsistent with this title, as
14 may be necessary in the execution of its functions
15 under this title;”.

16 **SEC. 302. GENERAL DUTIES.**

17 Section 403(c) of title 39, United States Code, is
18 amended—

19 (1) by inserting “domestic or international”
20 after “users of the”; and

21 (2) by striking “user.” and inserting “user, ex-
22 cept that this subsection shall not apply to competi-
23 tive products (as defined in chapter 37).”.

1 **SEC. 303. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

2 Section 404 of title 39, United States Code, is
3 amended by adding at the end the following:

4 “(c)(1) The Postal Service may employ guards for all
5 buildings and areas owned or occupied by the Postal Serv-
6 ice or under the charge and control of the Postal Service,
7 and such guards shall have, with respect to such property,
8 the powers of special policemen provided by the first sec-
9 tion of the Act cited in paragraph (2), and, as to such
10 property, the Postmaster General (or his designee) may
11 take any action that the Administrator of General Services
12 (or his designee) may take under section 2 or 3 of such
13 Act, attaching thereto penalties under the authority and
14 within the limits provided in section 4 of such Act.

15 “(2) The Act cited in this paragraph is the Act of
16 June 1, 1948 (62 Stat. 281), commonly known as the Pro-
17 tection of Public Property Act.”.

18 **SEC. 304. DATE OF POSTMARK TO BE TREATED AS DATE OF**
19 **APPEAL IN CONNECTION WITH THE CLOSING**
20 **OR CONSOLIDATION OF POST OFFICES.**

21 (a) IN GENERAL.—Section 404(b) of title 39, United
22 States Code, is amended by adding at the end the follow-
23 ing:

24 “(6) For purposes of paragraph (5), any appeal re-
25 ceived by the Commission shall—

1 “(A) if sent to the Commission through the
2 mails, be considered to have been received on the
3 date of the Postal Service postmark on the envelope
4 or other cover in which such appeal is mailed; or

5 “(B) if otherwise lawfully delivered to the Com-
6 mission, be considered to have been received on the
7 date determined based on any appropriate docu-
8 mentation or other indicia (as determined under reg-
9 ulations of the Commission).”.

10 (b) **EFFECTIVE DATE.**—This section and the amend-
11 ments made by this section shall apply with respect to any
12 determination to close or consolidate a post office which
13 is first made available, in accordance with paragraph (3)
14 of section 404(b) of title 39, United States Code, after
15 the end of the 3-month period beginning on the date of
16 enactment of this Act.

17 **SEC. 305. UNFAIR COMPETITION PROHIBITED.**

18 (a) **SPECIFIC LIMITATIONS.**—Chapter 4 of title 39,
19 United States Code, is amended by adding after section
20 404 the following:

21 **“§ 404a. Specific limitations**

22 “(a) In providing products and services and in estab-
23 lishing classifications, rates, and fees under this title, the
24 Postal Service, any corporation established under section
25 2012, and any other entity funded, in whole or in part,

1 by the Postal Service, shall not, directly or indirectly, ex-
2 cept as specifically authorized by law—

3 “(1) provide any postal or nonpostal product or
4 service, with respect to which the Postal Service or
5 any such corporation or entity (as the case may be),
6 precludes competition or otherwise establishes the
7 terms of competition through regulation (including
8 standard-setting), licensing, or policy-setting;

9 “(2)(A) establish any regulation (including any
10 standard) the effect of which is (or would be) to cre-
11 ate a monopoly or any competitive advantage for
12 itself, any such corporation or entity, or any other
13 person; or

14 “(B) enter into any agreement, establish any
15 policy, or take any other action (not covered by sub-
16 paragraph (A)), the effect of which is (or would be)
17 to create a monopoly or any other unlawful competi-
18 tive advantage for itself, any such corporation or en-
19 tity, or any other person;

20 “(3) regulate competition or engage in any reg-
21 ulatory or enforcement activity with respect to ac-
22 tions or practices that are subject to the antitrust
23 laws;

24 “(4) obtain information from a person that pro-
25 vides, or seeks to provide, a postal or nonpostal

1 product or service, and subsequently disclose that in-
2 formation, or offer any product or service that uses
3 or is based in whole or in part on that information,
4 without the consent of the person providing that in-
5 formation, unless substantially the same information
6 is obtained from an independent source or is other-
7 wise obtained by the Postal Service, corporation, or
8 other entity (as the case may be) in a manner not
9 inconsistent with this paragraph; or

10 “(5) compel the disclosure, transfer, or licens-
11 ing of intellectual property (such as patents, copy-
12 rights, trademarks, trade secrets, and proprietary in-
13 formation).

14 “(b)(1) For purposes of this section, the term ‘anti-
15 trust laws’ has the meaning given such term in subsection
16 (a) of the first section of the Clayton Act (15 U.S.C.
17 12(a)), but includes section 5 of the Federal Trade Com-
18 mission Act (15 U.S.C. 45) to the extent that such section
19 5 applies to unfair methods of competition.

20 “(2) Nothing in this section shall be construed as lim-
21 iting the scope or effect of intellectual property rights rec-
22 ognized under the laws of the United States.

23 “(c) The Postal Regulatory Commission shall pre-
24 scribe regulations to carry out the purposes of this sec-
25 tion.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 4 of title 39, United States
3 Code, is amended by adding at the end the following:

“404a. Specific limitations.”.

4 **SEC. 306. INTERNATIONAL POSTAL ARRANGEMENTS.**

5 (a) INTERNATIONAL POSTAL ARRANGEMENTS.—

6 (1) IN GENERAL.—Section 407 of title 39,
7 United States Code, is amended to read as follows:

8 **“§ 407. International postal arrangements**

9 “(a) It is the policy of the United States—

10 “(1) to promote and encourage communications
11 between peoples by efficient operation of inter-
12 national postal services and other international deliv-
13 ery services for cultural, social, and economic pur-
14 poses;

15 “(2) to promote and encourage unrestricted and
16 undistorted competition in the provision of inter-
17 national postal services and other international deliv-
18 ery services, except where provision of such services
19 by private companies may be prohibited by law of
20 the United States;

21 “(3) to promote and encourage a clear distinc-
22 tion between governmental and operational respon-
23 sibilities with respect to the provision of inter-
24 national postal services and other international deliv-
25 ery services by the Government of the United States

1 and by intergovernmental organizations of which the
2 United States is a member; and

3 “(4) to participate in multilateral and bilateral
4 agreements with other countries to accomplish these
5 objectives.

6 “(b)(1) The Secretary of State shall be responsible
7 for formulation, coordination, and oversight of foreign pol-
8 icy related to international postal services and other inter-
9 national delivery services, except that the Secretary may
10 not negotiate or conclude any treaty, convention, or other
11 international agreement (including those regulating inter-
12 national postal services) if such treaty, convention, or
13 agreement would, with respect to any competitive product
14 (as that term is defined in chapter 37), grant an undue
15 or unreasonable preference to the Postal Service, a private
16 provider of international postal or delivery services, or any
17 other person.

18 “(2) In carrying out the responsibilities specified in
19 paragraph (1), the Secretary of State shall—

20 “(A) exercise primary authority for the conduct
21 of foreign policy with respect to international postal
22 services and international delivery services, including
23 the determination of United States positions and the
24 conduct of United States participation in negotia-
25 tions with foreign governments and international

1 bodies; in exercising this responsibility, the Secretary
2 shall coordinate with other agencies as appropriate,
3 and in particular, shall give full consideration to the
4 authority vested by law or Executive order in the
5 Postal Regulatory Commission, the Department of
6 Commerce, the Department of Transportation, and
7 the Office of the United States Trade Representative
8 in this area;

9 “(B) maintain continuing liaison with other ex-
10 ecutive branch agencies concerned with postal and
11 delivery services;

12 “(C) maintain continuing liaison with the Com-
13 mittee on Government Reform and Oversight of the
14 House of Representatives and the Committee on
15 Governmental Affairs of the Senate;

16 “(D) maintain appropriate liaison with rep-
17 resentatives of the Postal Service to keep informed
18 of its interests and problems, and to provide such
19 assistance as may be needed to ensure that matters
20 of concern to the Postal Service are promptly consid-
21 ered by the Department of State or (if applicable,
22 and to the extent practicable) other executive branch
23 agencies;

24 “(E) maintain appropriate liaison with rep-
25 resentatives of users and private providers of inter-

1 national postal services and other international deliv-
2 ery services to keep informed of their interests and
3 problems, and to provide such assistance as may be
4 needed to ensure that matters of concern are
5 promptly considered by the Department of State or
6 (if applicable, and to the extent practicable) other
7 executive branch agencies; and

8 “(F) assist in arranging meetings of such pub-
9 lic sector advisory groups as may be established to
10 advise the Department of State and other executive
11 branch agencies in connection with international
12 postal services and international delivery services.

13 “(c) Nothing in this section shall be considered to
14 prevent the Postal Service from entering into such com-
15 mercial or operational contracts related to providing inter-
16 national postal services and other international delivery
17 services as it deems appropriate, except that—

18 “(1) any such contract made with an agency of
19 a foreign government (whether under authority of
20 this subsection or otherwise) must be solely contrac-
21 tual in nature and may not purport to be inter-
22 national law; and

23 “(2) a copy of each such contract between the
24 Postal Service and an agency of a foreign govern-
25 ment shall be transmitted to the Secretary of State

1 and the Postal Regulatory Commission not later
2 than the effective date of such contract.

3 “(d)(1) With respect to shipments of international
4 mail within the meaning of section 3741 that are exported
5 or imported by the Postal Service—

6 “(A) the Postal Service shall not tender ex-
7 ported shipments to governmental authorities of any
8 other country for clearance and importation except
9 in accordance with procedures and laws which are
10 equally applicable to similar shipments transmitted
11 by private companies; and

12 “(B)(i) subject to clause (ii), the Customs Serv-
13 ice and other appropriate Federal agencies shall
14 apply the customs laws of the United States and all
15 other laws relating to the importation or exportation
16 of such shipments in the same manner to both ship-
17 ments by the Postal Service and similar shipments
18 by private companies; and

19 “(ii) the Customs Service and other Federal
20 agencies shall deny shipments imported by the Post-
21 al Service from a foreign country access to special
22 customs procedures established in accordance with
23 international postal or customs agreements for ship-
24 ments by postal authorities of other countries unless
25 that foreign country makes available such special

1 customs procedures both to shipments to such coun-
2 try from the United States by the Postal Service and
3 similar shipments to such country from the United
4 States by private companies.

5 “(2)(A) The provisions of paragraph (1)(B)(i) shall
6 take effect beginning on the date of enactment of this sub-
7 section.

8 “(B) The provisions of subparagraphs (A) and (B)(ii)
9 of paragraph (1) shall take effect beginning 5 years after
10 the date of enactment of this subsection.

11 “(C) The Secretary of State shall, to the maximum
12 extent practicable, take such measures as are within the
13 control of the Secretary—

14 “(i) to complete the renegotiation of any trea-
15 ties, conventions, or other international agreements
16 (including those regulating international postal serv-
17 ices), and

18 “(ii) to encourage the governments of other
19 countries to make any changes in their laws (consist-
20 ent with the policies carried out by the provisions re-
21 ferred to in subparagraph (B)),

22 which may be necessary in order to facilitate the timely
23 implementation of the provisions that are subject to sub-
24 paragraph (B). The Secretary of State shall consult with

1 the United States Trade Representative and the Commis-
2 sioner of Customs in carrying out this subparagraph.

3 “(3) For purposes of this subsection, the term ‘pri-
4 vate company’ means a private company substantially
5 owned or controlled by persons who are citizens of the
6 United States.”.

7 (2) EFFECTIVE DATE.—Notwithstanding para-
8 graph (1), the authority of the United States Postal
9 Service to establish the rates of postage or other
10 charges on mail matter conveyed between the United
11 States and other countries shall remain available to
12 the Postal Service until the date as of which the
13 baseline rates are determined under section
14 3721(e)(2) of title 39, United States Code (as
15 amended by section 201).

16 (b) TRADE-IN-SERVICES PROGRAM.—The second sen-
17 tence of paragraph (5) of section 306(a) of the Trade and
18 Tariff Act of 1984 (19 U.S.C. 2114b(5)) is amended by
19 inserting “postal and delivery services,” after “transpor-
20 tation,”.

21 **SEC. 307. SUITS BY AND AGAINST THE POSTAL SERVICE.**

22 (a) IN GENERAL.—Section 409 of title 39, United
23 States Code, is amended by striking subsections (c)
24 through (e) and inserting the following:

1 “(c) For purposes of the Act of July 5, 1946 (com-
2 monly referred to as the ‘Trademark Act of 1946’ (15
3 U.S.C. 1051 and following)), the Postal Service shall be
4 considered to be a ‘person’, as used in that Act, and shall
5 not be immune under any other doctrine of sovereign im-
6 munity from suit in Federal court by any person for any
7 violation of that Act by any officer or employee of the
8 Postal Service.

9 “(d)(1) To the extent that the Postal Service, or
10 other Federal agency acting on behalf of or in concert with
11 the Postal Service, engages in conduct with respect to any
12 service which is not reserved to the United States under
13 section 1696 of title 18, the Postal Service or other Fed-
14 eral agency—

15 “(A) shall not be immune under any doctrine of
16 sovereign immunity from suit in Federal court by
17 any person for any violation of law by such agency
18 or any officer or employee thereof;

19 “(B) shall not be considered a ‘Federal agency’
20 for purposes of section 1346(b) and chapter 171 of
21 title 28, and shall be liable for actions in tort in the
22 same manner as a private company; and

23 “(C) shall be considered to be a person (as de-
24 fined in subsection (a) of the first section of the
25 Clayton Act (15 U.S.C. 12(a)) for purposes of—

1 “(i) the antitrust laws (as defined in sub-
2 section (a) of the first section of the Clayton
3 Act (15 U.S.C. 12(a)); and

4 “(ii) section 5 of the Federal Trade Com-
5 mission Act (15 U.S.C. 45) to the extent that
6 such section 5 applies to unfair methods of
7 competition.

8 “(2) This subsection shall not apply with respect to
9 conduct occurring before the effective date of this chapter.

10 “(e)(1) Motor vehicles owned or leased by the Postal
11 Service that are primarily and regularly used for the
12 transport or delivery of products in the competitive cat-
13 egory of mail shall be subject to Federal and State laws
14 and regulations associated with the parking and operation
15 of such motor vehicles, to the same extent and in the same
16 manner as if they were owned or leased by a private com-
17 pany.

18 “(2) Any motor vehicle owned or leased by the Postal
19 Service that is primarily and regularly used for the trans-
20 port or delivery of products in the competitive category
21 of mail shall be clearly identified as such by appropriate
22 symbol or other marking.

23 “(3) This subsection shall become effective on the
24 first day of the first ratemaking cycle.

25 “(4) For purposes of this subsection—

1 “(A) the terms ‘product in the competitive cat-
2 egory of mail’ and ‘ratemaking cycle’ have the mean-
3 ings given them by chapter 37; and

4 “(B) the term ‘State’ includes the District of
5 Columbia, the Commonwealth of Puerto Rico, and a
6 territory or possession of the United States.

7 “(f)(1) The Postal Service shall comply with—

8 “(A) any zoning, planning, and land use regula-
9 tions applicable to State or local public entities; and

10 “(B) any building codes applicable to State or
11 local public entities.

12 “(2) For purposes of this subsection, the term ‘State’
13 has the meaning given such term by subsection (e).

14 “(g)(1) The Postal Service shall employ attorneys by
15 contract or otherwise to conduct litigation on its behalf
16 in any litigation arising, in whole or in part, under any
17 of the following:

18 “(A) Subsection (c), (d), or (e) of section 409
19 (relating to application of certain laws to the Postal
20 Service).

21 “(B) Subsection (f) or (g) of section 3604 (re-
22 lating to administrative subpoenas by the Postal
23 Regulatory Commission).

1 “(C) Subsection (a) or (b) of section 3628 (re-
2 lating to appeals from decisions of the Commission
3 and the Directors).

4 “(2) In any circumstance not covered by paragraph
5 (1), the Department of Justice shall, under section 411,
6 furnish the Postal Service such legal representation as it
7 may require, except that, with the prior consent of the
8 Attorney General, the Postal Service may, in any such cir-
9 cumstance, employ attorneys by contract or otherwise to
10 conduct litigation brought by or against the Postal Service
11 or its officers or employees in matters affecting the Postal
12 Service.

13 “(h) A judgment against the Government of the
14 United States arising out of activities of the Postal Service
15 shall be paid by the Postal Service out of any funds avail-
16 able to the Postal Service, subject to the restriction speci-
17 fied in section 2011(f).”.

18 (b) TECHNICAL AMENDMENT.—Section 409(a) of
19 title 39, United States Code, is amended by striking “Ex-
20 cept as provided in section 3628 of this title,” and insert-
21 ing “Except as otherwise provided in this title,”.

1 **TITLE IV—MISCELLANEOUS**
2 **PROVISIONS RELATING TO**
3 **THE BUDGET AND APPRO-**
4 **PRIATIONS PROCESS**

5 **SEC. 401. PROVISIONS RELATING TO BENEFITS UNDER**
6 **CHAPTER 81 OF TITLE 5, UNITED STATES**
7 **CODE, FOR OFFICERS AND EMPLOYEES OF**
8 **THE FORMER POST OFFICE DEPARTMENT.**

9 (a) IN GENERAL.—Section 8 of the Postal Reorga-
10 nization Act (39 U.S.C. 1001 note) is amended by insert-
11 ing “(a)” after “8.” and by adding at the end the follow-
12 ing:

13 “(b) For purposes of chapter 81 of title 5, United
14 States Code, the Postal Service shall, with respect to any
15 individual receiving benefits under such chapter as an offi-
16 cer or employee of the former Post Office Department,
17 have the same authorities and responsibilities as it has
18 with respect to an officer or employee of the Postal Service
19 receiving such benefits.”.

20 (b) EFFECTIVE DATE.—This section and the amend-
21 ments made by this section shall take effect on October
22 1, 1998.

23 **SEC. 402. TECHNICAL AND CONFORMING AMENDMENTS.**

24 (a) APPROPRIATIONS.—Subsection (e) of section
25 2401 of title 39, United States Code, is amended—

1 (1) by striking “Committee on Post Office and
2 Civil Service” each place it appears and inserting
3 “Committee on Government Reform and Oversight”;

4 (2) by striking “and the Committees on Appro-
5 priations of the Senate and the House of Represent-
6 atives”; and

7 (3) by striking “Not later than March 15 of
8 each year,” and inserting “Each year,”.

9 (b) TECHNICAL CORRECTION.—Sections 2803(a) and
10 2804(a) of title 39, United States Code, are amended by
11 striking “2401(g)” and inserting “2401(e)”.

12 **TITLE V—PROVISIONS RELAT-**
13 **ING TO TRANSPORTATION,**
14 **CARRIAGE, OR DELIVERY OF**
15 **MAIL**

16 **SEC. 501. OBSOLETE PROVISIONS.**

17 (a) REPEAL.—Chapter 52 of title 39, United States
18 Code, is repealed.

19 (b) CONFORMING AMENDMENTS.—Section 5005(a)
20 of title 39, United States Code, is amended—

21 (1) by repealing paragraph (1); and

22 (2) in paragraph (4) by striking “(as defined in
23 section 5201(6) of this title)”.

24 (c) ELIMINATING RESTRICTION ON LENGTH OF CON-
25 TRACTS.—(1) Section 5005(b)(1) of title 39, United

1 States Code, is amended by striking “(or where the Postal
2 Service determines that special conditions or the use of
3 special equipment warrants, not in excess of 6 years)” and
4 inserting “(or such length of time as may be determined
5 by the Postal Service to be advisable or appropriate)”.

6 (2) Section 5402(c) of such title 39 is amended by
7 striking “for a period of not more than 4 years”.

8 (3) Section 5605 of such title 39 is amended by strik-
9 ing “for periods of not in excess of 4 years”.

10 (d) CLERICAL AMENDMENT.—The table of chapters
11 for part V of title 39, United States Code, is amended
12 by repealing the item relating to chapter 52.

13 **SEC. 502. EXPANDED CONTRACTING AUTHORITY.**

14 Subsection (d) of section 5402 of title 39, United
15 States Code, is amended to read as follows:

16 “(d) Notwithstanding the provisions of subsections
17 (a) through (c), the Postal Service may contract for the
18 transportation of mail by aircraft, except as provided in
19 subsections (f) and (g).”.

20 **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

21 (a) REPEAL OF SUSPENSION AUTHORITY.—Sub-
22 section (b) of section 601 of title 39, United States Code,
23 is repealed.

1 (b) PRIVATE CARRIAGE.—Section 601 of title 39,
2 United States Code, is amended by striking subsection (a)
3 and inserting the following:

4 “(a) A letter may be carried out of the mails when—

5 “(1) the amount paid for the private carriage of
6 the letter is at least the amount equal to 6 times the
7 rate then currently charged for the 1st ounce of a
8 single-piece first-class letter;

9 “(2) the letter weighs at least 12 ½ ounces;

10 “(3) such carriage is within the scope of serv-
11 ices described by regulations of the United States
12 Postal Service (as in effect on July 1, 1998) that
13 purport to permit private carriage by suspension of
14 the operation of this subsection (as then in effect);
15 or

16 “(4) the requirements of subsection (b) are
17 met.

18 “(b) A letter shall be considered to satisfy the re-
19 quirements of this subsection if—

20 “(1) it is enclosed in an envelope;

21 “(2) the amount of postage which would have
22 been charged on the letter if it had been sent by
23 mail is paid by stamps, or postage meter stamps, on
24 the envelope;

25 “(3) the envelope is properly addressed;

1 “(4) the envelope is so sealed that the letter
2 cannot be taken from it without defacing the enve-
3 lope;

4 “(5) any stamps on the envelope are canceled in
5 ink by the sender; and

6 “(6) the date of the letter, of its transmission
7 or receipt by the carrier is endorsed on the envelope
8 in ink.”.

9 (c) **EFFECTIVE DATE.**—This section shall take effect
10 as of the first day of the first year beginning on or after
11 the date as of which the baseline rates are determined
12 under section 3721(e)(2).

13 **SEC. 504. REPEAL OF SECTION 5403.**

14 (a) **IN GENERAL.**—Section 5403 of title 39, United
15 States Code, is repealed.

16 (b) **CLERICAL AMENDMENT.**—The table of sections
17 for chapter 54 of title 39, United States Code, is amended
18 by repealing the item relating to section 5403.

19 **TITLE VI—STUDIES**

20 **SEC. 601. EMPLOYEE-MANAGEMENT RELATIONS.**

21 (a) **INDEPENDENT STUDY REQUIRED.**—The Board
22 of Directors shall, by contract, provide for the National
23 Academy of Public Administration to conduct an inde-
24 pendent study as to how employee-management relations
25 within the United States Postal Service may be improved.

1 (b) SPECIFIC REQUIREMENTS.—Under the contract,
2 the Academy shall be required—

3 (1) to involve the labor, supervisory, and mana-
4 gerial organizations of the Postal Service in develop-
5 ing the design and specific objectives of the study;

6 (2) to consult periodically with representatives
7 of the Postal Service, and of those labor, super-
8 visory, and managerial organizations, on the
9 progress of the study; and

10 (3) to provide opportunity for those labor, su-
11 pervisory, and managerial organizations to review
12 and submit written comments on the final report.

13 (c) FINAL REPORT.—

14 (1) IN GENERAL.—The Academy shall, not later
15 than 12 months after the date on which the contract
16 for the study under this section is entered into, sub-
17 mit its final report to the President, the Congress,
18 the Postal Service, and the labor, supervisory, and
19 managerial organizations of the Postal Service.

20 (2) CONTENTS.—The report shall contain the
21 findings, conclusions, and recommendations of the
22 Academy on all matters required to be addressed by
23 the study, and shall also include all written com-
24 ments submitted to the Academy under subsection
25 (b)(3).

1 (d) COOPERATION.—The Board of Directors shall
2 take appropriate measures to ensure that all components
3 of the Postal Service cooperate fully with the Academy in
4 the conduct of its study under this section.

5 (e) DEFINITION.—For purposes of this section, the
6 term “Board of Directors” has the meaning given such
7 term by section 102 of title 39, United States Code (as
8 amended by section 101 of this Act).

9 **SEC. 602. RECOMMENDATIONS ON UNIVERSAL POSTAL**
10 **SERVICE.**

11 (a) IN GENERAL.—Chapter 28 of title 39, United
12 States Code, is amended by adding at the end the follow-
13 ing:

14 **“§ 2806. Universal postal services**

15 “(a)(1) Within 1 month after the date of enactment
16 of this section, the Postal Service shall begin conducting
17 a study the purpose of which shall be to develop rec-
18 ommendations as to the appropriate scope and standards
19 for universal postal services to be assured by the Govern-
20 ment of the United States consistent with its obligations
21 under sections 101 and 403.

22 “(2) The Postal Service shall, within 18 months
23 thereafter, complete its study and submit a written report
24 to the President, the Congress, and the Postal Regulatory

1 Commission setting forth its recommendations under this
2 section and the reasons therefor.

3 “(3) The Postal Service shall solicit and include as
4 part of its report the written views and suggestions of any
5 persons who may be affected by or interested in any mat-
6 ter as to which the study pertains.

7 “(4) The conduct of the study and the drafting of
8 the report required under this section shall, consistent
9 with section 2805 (relating to inherently Governmental
10 functions), be performed only by employees of the Postal
11 Service.

12 “(b)(1) The recommendations submitted by the Post-
13 al Service under this section shall include recommenda-
14 tions concerning a universal service definition for each
15 class of delivery services the continuous provision of which
16 must, in the view of the Postal Service, be assured in order
17 to fulfill the obligations set out in sections 101 and 403.

18 “(2) In developing its recommendations under this
19 subsection with respect to any given class of delivery serv-
20 ices, the Postal Service shall take into consideration the
21 development of new technologies and the evolution of al-
22 ternative means of meeting the public interest objectives
23 set out in this title.

24 “(c) Each universal service definition recommended
25 by the Postal Service under this section shall include the

1 specification of minimum standards of service to be at-
2 tained, consistent with the following:

3 “(1) Standards of reliability, speed, frequency,
4 and quality of service shall be established so as to
5 meet the needs of users and consumers of universal
6 services generally.

7 “(2) Universal services should be available at
8 just, reasonable, and affordable rates sufficient to
9 enable universal services to be provided under best
10 practices of honest, efficient, and economical man-
11 agement.

12 “(3) Persons in all regions of the Nation, in-
13 cluding low-income persons and those located in
14 rural, insular, and high-cost areas, should have ac-
15 cess to universal postal services that are reasonably
16 comparable to those provided in urban areas and
17 that are available at appropriate rates. As provided
18 in section 101(b), no small post office of the Postal
19 Service shall be closed solely by reason of operating
20 at a deficit.

21 “(4) In providing universal services, the Postal
22 Service shall not, except as specifically authorized in
23 this title, make any undue or unreasonable discrimi-
24 nation among users, including other providers of
25 postal services.

1 “(5) Universal services shall be maintained
2 without interruption and without abrupt and sub-
3 stantial changes in rates or quality of service.

4 “(6) Standards for universal service should
5 avoid distortions in the competition between postal
6 operators and between commercial purchasers of
7 postal services to the extent consistent with fulfilling
8 the obligations set out in sections 101 and 403.

9 “(7) Universal service definitions for the State
10 of Alaska shall take into account the special condi-
11 tions and needs of that State.

12 “(8) Universal services shall be provided con-
13 sistent with such other principles as the Postal Serv-
14 ice determines are necessary and appropriate for the
15 protection of the public interest, convenience, and
16 necessity, and the requirements of this title.

17 “(d) In addition to the principles set out in subsection
18 (c), the Postal Service shall take into account special re-
19 quirements for certain classes of postal services under this
20 title, including requirements for uniform, reduced, or free
21 rates.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 28 of title 39, United States Code, is amended
24 by adding at the end the following:

 “2806. Universal postal services.”.

1 **SEC. 603. STUDY ON EQUAL APPLICATION OF LAWS TO**
2 **COMPETITIVE PRODUCTS.**

3 (a) IN GENERAL.—The Department of Justice shall
4 prepare and submit to the President and Congress, within
5 1 year after the date of enactment of this Act, a com-
6 prehensive report identifying Federal and State laws that
7 apply differently to products of the United States Postal
8 Service in the competitive category of mail (as that term
9 is defined in chapter 37 of title 39, United States Code,
10 as amended by this Act) and similar products provided
11 by private companies.

12 (b) RECOMMENDATIONS.—The Department of Jus-
13 tice shall include such recommendations as it considers ap-
14 propriate for bringing such legal discrimination to an end.

15 (c) CONSULTATION.—In preparing its report, the De-
16 partment of Justice shall consult with the United States
17 Postal Service, the Postal Regulatory Commission, other
18 Federal agencies, mailers, private companies that provide
19 delivery services, and the general public, and shall append
20 to such report any written comments received under this
21 subsection.

1 **TITLE VII—INSPECTORS**
2 **GENERAL**

3 **SEC. 701. INSPECTOR GENERAL OF THE POSTAL REGU-**
4 **LATORY COMMISSION.**

5 (a) IN GENERAL.—Paragraph (2) of section 8G(a)
6 of the Inspector General Act of 1978 is amended by insert-
7 ing “the Postal Regulatory Commission,” after “the
8 United States International Trade Commission,”.

9 (b) ADMINISTRATION.—Section 3604 of title 39,
10 United States Code, is amended by adding after sub-
11 section (g) (as added by section 211) the following:

12 “(h)(1) Notwithstanding any other provision of this
13 title or of the Inspector General Act of 1978, the authority
14 to select, appoint, and employ officers and employees of
15 the Office of Inspector General of the Postal Regulatory
16 Commission, and to obtain any temporary or intermittent
17 services of experts or consultants (or an organization of
18 experts or consultants) for the Commission, shall reside
19 with the Inspector General of the Postal Regulatory Com-
20 mission.

21 “(2) Except as provided in paragraph (1), any exer-
22 cise of authority under this subsection shall, to the extent
23 practicable, be in conformance with the applicable laws
24 and regulations that govern selections, appointments and
25 employment, and the obtaining of any such temporary or

1 intermittent services, within the Postal Regulatory Com-
2 mission.”.

3 (c) DEADLINE.—No later than 180 days after the
4 date of enactment of this Act—

5 (1) the first Inspector General of the Postal
6 Regulatory Commission shall be appointed; and

7 (2) the Office of Inspector General of the Post-
8 al Regulatory Commission shall be established.

9 **SEC. 702. INSPECTOR GENERAL OF THE UNITED STATES**

10 **POSTAL SERVICE TO BE APPOINTED BY THE**

11 **PRESIDENT.**

12 (a) DEFINITIONAL AMENDMENTS TO THE INSPEC-
13 TOR GENERAL ACT OF 1978.—Section 11 of the Inspector
14 General Act of 1978 is amended—

15 (1) in paragraph (1)—

16 (A) by striking “and” before “the chief ex-
17 ecutive officer of the Resolution Trust Corpora-
18 tion”;

19 (B) by striking “and” before “the Chair-
20 person of the Federal Deposit Insurance Cor-
21 poration”;

22 (C) by striking “or” before “the Commis-
23 sioner of Social Security, Social Security Ad-
24 ministration”; and

1 (D) by inserting “or the Postmaster Gen-
2 eral and Chief Executive Officer of the United
3 States Postal Service;” after “Social Security
4 Administration;”; and
5 (2) in paragraph (2)—

6 (A) by striking “or” before “the Veterans’
7 Administration”; and

8 (B) by striking “or” before “the Social Se-
9 curity Administration”; and

10 (C) by inserting “or the United States
11 Postal Service;” after “Social Security Adminis-
12 tration;”.

13 (b) SPECIAL PROVISIONS CONCERNING THE UNITED
14 STATES POSTAL SERVICE.—

15 (1) IN GENERAL.—The Inspector General Act
16 of 1978 is amended—

17 (A) by redesignating sections 8G (as
18 amended by section 701(a)) and 8H as sections
19 8H and 8I, respectively; and

20 (B) by inserting after section 8F the fol-
21 lowing:

22 “SPECIAL PROVISIONS CONCERNING THE UNITED STATES
23 POSTAL SERVICE

24 “SEC. 8G. (a) Notwithstanding the last two sentences
25 of section 3(a), the Inspector General of the United States
26 Postal Service shall report to and be under the general

1 supervision of the Postmaster General, but shall not re-
2 port to, or be subject to supervision by, any other officer
3 or employee of the United States Postal Service or its
4 Board of Directors. No such officer or employee (including
5 the Postmaster General) or member of such Board shall
6 prevent or prohibit the Inspector General from initiating,
7 carrying out, or completing any audit or investigation, or
8 from issuing any subpoena during the course of any audit
9 or investigation.

10 “(b) In carrying out the duties and responsibilities
11 specified in this Act, the Inspector General of the United
12 States Postal Service shall have oversight responsibility
13 for all activities of the Postal Inspection Service, including
14 any internal investigation performed by the Postal Inspec-
15 tion Service. The Chief Postal Inspector shall promptly re-
16 port the significant activities being carried out by the
17 Postal Inspection Service to such Inspector General.

18 “(c) Any report required to be transmitted by the
19 Postmaster General to the appropriate committees or sub-
20 committees of the Congress under section 5(d) shall also
21 be transmitted, within the 7-day period specified under
22 such section, to the Committee on Government Reform
23 and Oversight of the House of Representatives and the
24 Committee on Governmental Affairs of the Senate.

1 “(d) Notwithstanding any provision of paragraph (7)
2 or (8) of section 6(a), the Inspector General of the United
3 States Postal Service may select, appoint, and employ
4 such officers and employees as may be necessary for carry-
5 ing out the functions, powers and duties of the Office of
6 Inspector General and to obtain the temporary or inter-
7 mittent services of experts or consultants or an organiza-
8 tion of experts or consultants, subject to the applicable
9 laws and regulations that govern such selections, appoint-
10 ments, and employment, and the obtaining of such serv-
11 ices, within the United States Postal Service.

12 “(e) Nothing in this Act shall restrict, eliminate, or
13 otherwise adversely affect any of the rights, privileges, or
14 benefits of employees of the United States Postal Service,
15 or labor organizations representing employees of the
16 United States Postal Service, under chapter 12 of title 39,
17 United States Code, the National Labor Relations Act,
18 any handbook or manual affecting employee labor rela-
19 tions with the United States Postal Service, or any collec-
20 tive bargaining agreement.

21 “(f) There are authorized to be appropriated, out of
22 the Postal Service Fund, such sums as may be necessary
23 for the Office of Inspector General of the United States
24 Postal Service.

1 “(g) As used in this section, ‘Postmaster General’,
2 ‘Board of Directors’, and ‘Board’ each has the meaning
3 given it by section 102 of title 39, United States Code.”.

4 (2) RELATED PROVISIONS.—

For certain related provisions, see section 213(b).

5 (c) AUDITS OF THE POSTAL SERVICE.—

6 (1) AUDITS.—Subsection (e) of section 2008 of
7 title 39, United States Code, is amended to read as
8 follows:

9 “(e)(1) At least once each year beginning with the
10 fiscal year commencing after the date of enactment of the
11 Postal Modernization Act of 1998, the financial state-
12 ments of the Postal Service (including those used in deter-
13 mining and establishing postal rates) shall be audited by
14 the Inspector General or by an independent external audi-
15 tor selected by the Inspector General.

16 “(2) Audits under this section shall be conducted in
17 accordance with applicable generally accepted government
18 auditing standards.

19 “(3) Upon completion of the audit required by this
20 subsection, the person who audits the statement shall sub-
21 mit a report on the audit to the Postmaster General.”.

22 (2) RESULTS OF INSPECTOR GENERAL’S AUDIT
23 TO BE INCLUDED IN ANNUAL REPORT.—Section
24 2402 of title 39, United States Code, is amended by
25 inserting after the first sentence the following:

1 “Each report under this section shall include, for the
2 most recent fiscal year for which a report under sec-
3 tion 2008(e) is available (unless previously transmit-
4 ted under the following sentence), a copy of such re-
5 port.”.

6 (3) COORDINATION PROVISIONS.—Subsection
7 (d) of section 2008 of title 39, United States Code,
8 is amended—

9 (A) by striking “(d) Nothing” and insert-
10 ing “(d)(1) Except as provided in paragraph
11 (2), nothing”; and

12 (B) by adding at the end the following:

13 “(2) An audit or report under paragraph (1) may not
14 be obtained without the prior written approval of the In-
15 specter General.”.

16 (4) SAVINGS PROVISION.—For purposes of any
17 fiscal year preceding the first fiscal year commene-
18 ing after the date of enactment of this Act, the pro-
19 visions of title 39, United States Code, shall be ap-
20 plied as if the amendments made by this subsection
21 had never been enacted.

22 (d) REPORTS.—

23 (1) IN GENERAL.—Section 3013 of title 39,
24 United States Code, is amended—

1 (A) in the first sentence by striking “Post-
2 master General” and inserting “Chief Postal
3 Inspector”;

4 (B) by striking “Board” each place it ap-
5 pears and inserting “Inspector General”;

6 (C) in the third sentence by striking “Each
7 such report shall be submitted within sixty days
8 after the close of the reporting period involved”
9 and inserting “Each such report shall be sub-
10 mitted within 1 month (or such shorter length
11 of time as the Inspector General may specify)
12 after the close of the reporting period involved”;
13 and

14 (D) by striking the last sentence and in-
15 serting the following:

16 “The information in a report submitted under this section
17 to the Inspector General with respect to a reporting period
18 shall be included as part of the semiannual report pre-
19 pared by the Inspector General under section 5 of the In-
20 spector General Act of 1978 for the same reporting period.
21 Nothing in this section shall be considered to permit or
22 require that any report by the Chief Postal Inspector
23 under this section include any information relating to ac-
24 tivities of the Inspector General.”.

1 (2) EFFECTIVE DATE.—This subsection shall
2 take effect on the first day of the first semiannual
3 reporting period beginning on or after the date of
4 enactment of this Act and shall apply with respect
5 to semiannual reporting periods beginning on or
6 after the effective date of this subsection.

7 (3) SAVINGS PROVISION.—For purposes of any
8 semiannual reporting period preceding the first
9 semiannual reporting period referred to in para-
10 graph (2), the provisions of title 39, United States
11 Code, shall continue to apply as if the amendments
12 made by this subsection had not been enacted.

13 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) RELATING TO THE INSPECTOR GENERAL
15 ACT OF 1978.—(A) Subsection (a) of section 8H of
16 the Inspector General Act of 1978 (as amended by
17 section 701 and redesignated by subsection (b) of
18 this section) is further amended—

19 (i) in paragraph (2) by striking “the Post-
20 al Regulatory Commission, and the United
21 States Postal Service;” and inserting “and the
22 Postal Regulatory Commission;” and

23 (ii) in paragraph (4) by striking “except
24 that” and all that follows through “Code);” and
25 inserting “except that, with respect to the Na-

1 tional Science Foundation, such term means the
2 National Science Board;”.

3 (B)(i) Subsection (f) of section 8H of such Act
4 (as so redesignated) is repealed.

5 (ii) Subsection (c) of section 8H of such
6 Act (as so redesignated) is amended by striking
7 “Except as provided under subsection (f) of this
8 section, the” and inserting “The”.

9 (2) RELATING TO TITLE 39, UNITED STATES
10 CODE.—(A) Subsection (e) of section 202 of title 39,
11 United States Code, is repealed.

12 (B) Paragraph (4) of section 102 of such title
13 39, as amended by sections 102(a) and 205(a) of
14 this Act, is amended to read as follows:

15 “(4) ‘Inspector General’ means the Inspector
16 General of the United States Postal Service, ap-
17 pointed under section 3(a) of the Inspector General
18 Act of 1978;”.

19 (C) The first sentence of section 1003(a) of
20 such title 39 is amended by striking “chapters 2 and
21 12 of this title, section 8G of the Inspector General
22 Act of 1978, or other provision of law,” and insert-
23 ing “chapter 2 or 12 of this title, subsection (b) or
24 (c) of section 1003 of this title, or any other provi-
25 sion of law;”.

1 (D) Subsection (b) of section 1003 of such title
2 39 is amended by striking “respective” and inserting
3 “other”.

4 (E) Subsection (c) of section 1003 of such title
5 39 is amended by striking “included” and inserting
6 “includes”.

7 (f) EFFECTIVE DATE; ELIGIBILITY OF PRIOR IN-
8 SPECTOR GENERAL.—

9 (1) EFFECTIVE DATE.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B) or in subsection (c) or (d),
12 this section and the amendments made by this
13 section shall take effect on the date of enact-
14 ment of this Act.

15 (B) SPECIAL RULES.—

16 (i) IN GENERAL.—Except as provided
17 in clause (ii), if the position of Inspector
18 General of the United States Postal Serv-
19 ice is occupied on the date of enactment of
20 this Act (other than by an individual serv-
21 ing due to a vacancy arising in that posi-
22 tion before the expiration of his or her
23 predecessor’s term), then, until January 5,
24 2004, or, if earlier, the date on which such
25 individual ceases to serve in that position,

1 title 39, United States Code, shall be ap-
2 plied as if the amendments made by this
3 section had not been enacted.

4 (ii) AUTHORIZATION OF APPROPRIA-
5 TIONS.—

6 (I) IN GENERAL.—Notwithstand-
7 ing any other provision of this para-
8 graph, subsection (f) of section 8G of
9 the Inspector General Act of 1978 (as
10 amended by this section) shall be ef-
11 fective for purposes of fiscal years be-
12 ginning on or after October 1, 1999.

13 (II) SAVINGS PROVISION.—For
14 purposes of the fiscal year ending on
15 September 30, 1999, funding for the
16 Office of Inspector General of the
17 United States Postal Service shall be
18 made available in the same manner as
19 if this Act had never been enacted.

20 (2) ELIGIBILITY OF PRIOR INSPECTOR GEN-
21 ERAL.—Nothing in this Act shall prevent any indi-
22 vidual who has served as Inspector General of the
23 United States Postal Service at any time before the
24 date of enactment of this Act from being appointed

1 to that position pursuant to the amendments made
2 by this section.

3 **TITLE VIII—LAW ENFORCEMENT**
4 **Subtitle A—Amendments to**
5 **Title 39, United States Code**

6 **SEC. 801. MAKE FEDERAL ASSAULT STATUTES APPLICABLE**
7 **TO POSTAL CONTRACT EMPLOYEES.**

8 Section 1008 of title 39, United States Code, is
9 amended—

10 (1) in subsection (a) by inserting “or entrusted
11 with mail under contract with the Postal Service”
12 after “mail”; and

13 (2) in subsection (b) by inserting “an employee
14 of the Postal Service for the purposes of sections
15 111 and 1114 of title 18, and” after “deemed”.

16 **SEC. 802. SEXUALLY ORIENTED ADVERTISING.**

17 (a) CIVIL PENALTY.—Section 3011 of title 39,
18 United States Code, is amended—

19 (1) by redesignating subsections (b) through (e)
20 as subsections (c) through (f), respectively; and

21 (2) by inserting after subsection (a) the follow-
22 ing:

23 “(b)(1) Upon a finding by the court that a sexually
24 oriented advertisement has been mailed in violation of sec-
25 tion 3010(b), the court may assess, on whoever made the

1 mailing or caused it to be made, a civil penalty of not
2 less than \$500 and not more than \$1,500 for each viola-
3 tion. Each piece of mail sent in violation of section
4 3010(b) shall constitute a separate violation.

5 “(2) For purposes of this subsection—

6 “(A) receipt of a sexually oriented advertise-
7 ment after the recipient’s name and address have
8 been listed (as described in section 3010(b)) for at
9 least 60 days shall create a rebuttable presumption
10 that such advertisement was mailed more than 30
11 days after that individual’s name and address be-
12 came so listed; and

13 “(B) receipt in the mail of a sexually oriented
14 advertisement addressed to ‘Occupant’ or ‘Resident’
15 (or any other term permitted by Postal Service
16 standards on simplified addressing) at the recipient’s
17 address, or which is specifically addressed to the re-
18 cipient, but with an inconsequential error or vari-
19 ation in the recipient’s name or address, shall, for
20 purposes of applying the mailing prohibition of sec-
21 tion 3010(b), create a rebuttable presumption that
22 such advertisement was mailed to such recipient.

23 “(3) Any penalty assessed under paragraph (1) shall
24 be paid to the Postal Service for deposit in the Postal
25 Service Fund established by section 2003.”.

1 (b) REPEAL.—

2 (1) IN GENERAL.—Section 3008 of title 39,
3 United States Code, and the item relating to such
4 section in the table of sections at the beginning of
5 chapter 30 of such title, are repealed.

6 (2) CONFORMING AMENDMENTS.—(A) Sub-
7 section (f) of section 3011 of such title 39 (as so re-
8 designated by subsection (a)) is amended by striking
9 “section 3006, 3007, or 3008” and inserting “sec-
10 tion 3006 or 3007”.

11 (B) Section 1737 of title 18, United States
12 Code, is amended—

13 (i) in subsection (a) by striking “3008 or”;
14 and

15 (ii) in subsection (b) by striking “3008(a)
16 or”.

17 (c) EFFECTIVE DATE.—This section and the amend-
18 ments made by this section shall take effect 90 days after
19 the date of the enactment of this Act. The amendments
20 made by this section shall be treated as if they had never
21 been enacted for purposes of any mailing made or caused
22 to be made before this section takes effect.

1 **SEC. 803. ALLOW POSTAL SERVICE TO RETAIN ASSET FOR-**
2 **FEITURE RECOVERIES.**

3 Paragraph (7) of section 2003(b) of title 39, United
4 States Code, is amended to read as follows:

5 “(7) amounts (including proceeds from the sale
6 of forfeited items) from any civil forfeiture con-
7 ducted by the Postal Service and from any forfeiture
8 resulting from an investigation in which the Postal
9 Service has primary responsibility, except that noth-
10 ing in this paragraph shall preclude the Postal Serv-
11 ice, on such terms as it may determine, from sharing
12 such amounts with any Federal, State, or local law
13 enforcement agency which participated in any of the
14 acts which led to the seizure or forfeiture of the
15 property; and”.

16 **SEC. 804. HAZARDOUS MATTER.**

17 (a) CIVIL PENALTY.—Chapter 30 of title 39, United
18 States Code, is amended by adding at the end the follow-
19 ing:

20 **“§ 3016. Civil penalty for prohibited mailing and defi-**
21 **cient packaging of hazardous matter**

22 “(a) For the purposes of this section—

23 “(1) the term ‘parcel’ includes any kind of
24 package, envelope, container, or other piece of mail;

25 “(2) the term ‘manner’ includes the preparation
26 and packaging of a piece of mail;

1 “(3) a person shall be considered to have acted
2 knowingly if—

3 “(A) such person had actual knowledge of
4 the facts giving rise to the violation; or

5 “(B) a reasonable person acting in the
6 same circumstances and exercising due care
7 would have had such knowledge; and

8 “(4) the term ‘hazardous matter’ has the mean-
9 ing given such term by section 1716 of title 18.

10 “(b) Any person—

11 “(1) who knowingly mails or causes to be
12 mailed any parcel, the contents of which constitute
13 or include any hazardous matter which has been de-
14 clared by statute or Postal Service regulation to be
15 nonmailable under any circumstances;

16 “(2) who knowingly mails or causes to be
17 mailed a parcel in violation of any statute or Postal
18 Service regulation restricting the time, place, or
19 manner in which hazardous matter may be mailed;
20 or

21 “(3) who knowingly manufactures, distributes,
22 or sells any container, packaging kit, or similar de-
23 vice that—

1 “(A) is represented, marked, certified, or
2 sold by such person for use in the mailing of
3 any hazardous matter; and

4 “(B) fails to conform with any statute or
5 Postal Service regulation setting forth stand-
6 ards for containers, packaging kits, or similar
7 devices used for the mailing of hazardous mat-
8 ter;

9 shall be liable to the Postal Service for a civil penalty in
10 an amount not to exceed \$25,000 per violation.

11 “(c) The Postal Service may enforce this section by
12 commencing a civil action in accordance with section
13 409(d). The action may be brought in the district court
14 of the United States for the district in which the defend-
15 ant resides or any district in which the defendant conducts
16 business or in which a violation of this section was discov-
17 ered.

18 “(d) In determining the amount of any civil penalty
19 to be assessed under this section, the district court—

20 “(1) shall treat as a separate violation—

21 “(A) each parcel mailed or caused to be
22 mailed as described in paragraph (1) or (2) of
23 subsection (b); and

1 “(B) each container, packaging kit, or
2 similar device manufactured, distributed, or
3 sold as described in subsection (b)(3); and

4 “(2) shall take into account—

5 “(A) the nature, circumstances, extent,
6 and gravity of each violation committed; and

7 “(B) with respect to the person found to
8 have committed such violation, the degree of
9 culpability, any history of prior offenses, ability
10 to pay, effect on ability to continue to do busi-
11 ness, and such other matters as justice may re-
12 quire.

13 “(e) All penalties collected under authority of this
14 section shall be paid into the Postal Service Fund estab-
15 lished by section 2003.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of chapter 30 of title 39, United States
18 Code, is amended by adding at the end the following:

 “3016. Civil penalty for prohibited mailing and deficient packaging of hazardous
 matter.”.

19 **Subtitle B—Other Provisions**

20 **SEC. 811. STALKING FEDERAL OFFICERS AND EMPLOYEES.**

21 (a) IN GENERAL.—Chapter 41 of title 18, United
22 States Code, is amended by adding at the end the follow-
23 ing:

1 **“§ 881. Stalking Federal and postal officers and em-**
2 **ployees**

3 “(a) Whoever—

4 “(1) repeatedly engages in conduct (including
5 maintaining a visual or physical proximity or com-
6 municating a verbal or written threat) directed at
7 another person who is or was an officer or em-
8 ployee—

9 “(A) in the executive, legislative, or judicial
10 branch of the Federal Government; or

11 “(B) in the United States Postal Service;
12 while such other person is engaged in official duties
13 or on account of such duties;

14 “(2) knows that such conduct is likely to place
15 that other person in reasonable fear of sexual bat-
16 tery, bodily injury, or death; and

17 “(3) thereby induces such fear in that other
18 person;

19 shall be punished as provided in subsection (b) of this sec-
20 tion.

21 “(b)(1) The punishment for an offense under sub-
22 section (a) is—

23 “(A) in the case of a first conviction under such
24 subsection—

25 “(i) if, during the commission of the of-
26 fense, the offender uses a deadly or dangerous

1 weapon, a fine under this title or imprisonment
2 for not more than 10 years, or both;

3 “(ii) if the offense violates a protective
4 order, a fine under this title or imprisonment
5 for not more than 5 years, or both; and

6 “(iii) in any other case, a fine under this
7 title or imprisonment for not more than 3
8 years, or both; and

9 “(B) in the case of a second or subsequent con-
10 viction under such subsection, a fine under this title
11 or imprisonment for not more than 15 years, or
12 both.

13 “(2) If a sentence of probation is imposed for an of-
14 fense under this section, the court shall require the de-
15 fendant to undergo appropriate psychiatric, psychological,
16 or social counselling.

17 “(c)(1) Whoever is aggrieved by a violation of this
18 section may, in a civil action, obtain appropriate relief
19 from the person engaging in that violation. Such relief
20 may include compensatory and punitive damages, and in-
21 junctive or declaratory relief, and shall include reasonable
22 attorney’s fees.

23 “(2) If—

24 “(A) the court issues an injunction under this
25 subsection;

1 “(B) the person against whom the injunction is
2 issued is an officer or employee in the executive
3 branch of the Federal Government or in the United
4 States Postal Service; and

5 “(C) there is a nexus between the enjoined con-
6 duct and such person’s office or employment;
7 the court may order that the person be suspended or sum-
8 marily discharged from such office or employment.

9 “(d) As used in this section, the term ‘protective
10 order’ means any court order that requires an individual—

11 “(1) to refrain from behavior prohibited by sub-
12 section (a); or

13 “(2) to refrain from contact with the person
14 who subsequently is a victim of the offense under
15 such subsection that is committed by that individ-
16 ual.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 41 of title 18, United States
19 Code, is amended by adding at the end the following:

“881. Stalking Federal and postal officers and employees.”.

20 **SEC. 812. NONMAILABILITY OF CONTROLLED SUBSTANCES.**

21 Section 1716 of title 18, United States Code, is
22 amended by adding at the end the following:

23 “Whoever knowingly deposits for mailing or delivery,
24 or knowingly causes to be delivered by mail, according to
25 the direction thereon, or at any place at which it is di-

1 rected to be delivered by the person to whom it is ad-
2 dressed, unless in accordance with the rules and regula-
3 tions authorized to be prescribed by the Postal Service,
4 any controlled substance, as that term is defined for the
5 purposes of the Controlled Substances Act, shall, if the
6 distribution of a like amount of such substance is a felony
7 under such Act, be fined under this title or imprisoned
8 not more than 5 years, or both.”.

9 **SEC. 813. ENHANCED PENALTIES.**

10 Pursuant to its authority under section 994 of title
11 28, United States Code, the United States Sentencing
12 Commission shall amend its sentencing guidelines to—

13 (1) appropriately enhance penalties in cases in
14 which a defendant is convicted of stealing or de-
15 stroying a quantity of undelivered United States
16 mail, in violation of sections 1702, 1703, 1708,
17 1709, 2114, or 2115 of title 18, United States Code;
18 and

19 (2) establish that the intended loss in a theft of
20 an access device as defined in section 1029(e)(1) of
21 title 18, United States Code, shall be based on the
22 credit line of the access device or the actual unau-
23 thorized charges, whichever amount is greater.

1 **SEC. 814. POSTAL BURGLARY PROVISIONS.**

2 (a) LARCENY INVOLVING POST OFFICE BOXES AND
3 POSTAL STAMP VENDING MACHINES.—Section 2115 of
4 title 18, United States Code, is amended—

5 (1) by striking “or” before “any building”;

6 (2) by inserting “or any post office box or post-
7 al products vending machine,” after “used in whole
8 or in part as a post office,”; and

9 (3) by inserting “or in such box or machine,”
10 after “so used”.

11 (b) RECEIPT, POSSESSION, CONCEALMENT, OR DIS-
12 POSITION OF PROPERTY.—Section 2115 of title 18,
13 United States Code, is amended—

14 (1) by inserting “(a)” before “Whoever”; and

15 (2) by adding at the end the following:

16 “(b) Whoever receives, possesses, conceals, or dis-
17 poses of any mail matter, money, or other property of the
18 United States, that has been obtained in violation of this
19 section, knowing the same to have been unlawfully ob-
20 tained, shall be fined under this title or imprisoned not
21 more than 5 years, or both.”.

22 **SEC. 815. MAIL, MONEY, OR OTHER PROPERTY OF THE**
23 **UNITED STATES.**

24 (a) ENHANCED PENALTY FOR ROBBERY.—Sub-
25 section (a) of section 2114 of title 18, United States Code,
26 is amended to read as follows:

1 “(a) ASSAULT.—Whoever assaults any person having
2 lawful charge, control, or custody of any mail matter or
3 of any money or other property of the United States, with
4 intent to rob, steal, or purloin such mail matter, money,
5 or other property of the United States, or robs or attempts
6 to rob any such person of mail matter, or of any money,
7 or other property of the United States, shall, for the first
8 offense, be imprisoned not more than 10 years or fined
9 under this title, or both. If, in effecting or attempting to
10 effect such robbery the defendant wounds the person hav-
11 ing custody of such mail, money, or other property of the
12 United States, or puts that person’s life in jeopardy by
13 the use of a dangerous weapon, or the offense is a subse-
14 quent offense under this subsection, the defendant shall
15 be imprisoned not more than 25 years or fined under this
16 title, or both. If the death of any person results from the
17 offense under this subsection, the defendant shall be pun-
18 ished by death or life imprisonment.”.

19 (b) ATTEMPT OFFENSES.—

20 (1) The second paragraph of section 501 of title
21 18, United States Code, is amended by striking
22 “uses or sells,” and inserting “uses or sells or at-
23 tempts to use or sell,”.

24 (2) Section 1711 of title 18, United States
25 Code, is amended by inserting “attempts to loan,

- 1 use, pledge, hypothecate, or convert to this own
- 2 use,” after “converts to his own use,”.